

# FOSTER CARE INDEPENDENCE ACT OF 1999

JUNE 10, 1999.—Ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means, submitted the following

## REPORT

[To accompany H.R. 1802]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1802) to amend part E of title IV of the Social Security Act to provide States with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Foster Care Independence Act of 1999”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—IMPROVED INDEPENDENT LIVING PROGRAM****Subtitle A—Improved Independent Living Program**

Sec. 101. Improved independent living program.

**Subtitle B—Related Foster Care Provision**

Sec. 111. Increase in amount of assets allowable for children in foster care.

**Subtitle C—Medicaid Amendments**

Sec. 121. State option of medicaid coverage for adolescents leaving foster care.

**TITLE II—SSI FRAUD PREVENTION****Subtitle A—Fraud Prevention and Related Provisions**

- Sec. 201. Liability of representative payees for overpayments to deceased recipients.
- Sec. 202. Recovery of overpayments of SSI benefits from lump sum SSI benefit payments.
- Sec. 203. Additional debt collection practices.
- Sec. 204. Requirement to provide State prisoner information to Federal and federally assisted benefit programs.
- Sec. 205. Rules relating to collection of overpayments from individuals convicted of crimes.
- Sec. 206. Treatment of assets held in trust under the SSI program.
- Sec. 207. Disposal of resources for less than fair market value under the SSI program.
- Sec. 208. Administrative procedure for imposing penalties for false or misleading statements.
- Sec. 209. Exclusion of representatives and health care providers convicted of violations from participation in social security programs.
- Sec. 210. State data exchanges.
- Sec. 211. Study on possible measures to improve fraud prevention and administrative processing.
- Sec. 212. Annual report on amounts necessary to combat fraud.
- Sec. 213. Computer matches with medicare and medicaid institutionalization data.
- Sec. 214. Access to information held by financial institutions.

**Subtitle B—Benefits for Filipino Veterans of World War II**

Sec. 251. Provision of reduced SSI benefit to certain individuals who provided service to the Armed Forces of the United States in the Philippines during World War II after they move back to the Philippines.

**TITLE III—CHILD SUPPORT**

Sec. 301. Elimination of hold harmless provision for State share of distribution of collected child support.

**TITLE IV—TECHNICAL CORRECTIONS**

Sec. 401. Technical corrections relating to amendments made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

## **TITLE I—IMPROVED INDEPENDENT LIVING PROGRAM**

### **Subtitle A—Improved Independent Living Program**

**SEC. 101. IMPROVED INDEPENDENT LIVING PROGRAM.**

(a) **FINDINGS.**—The Congress finds the following:

(1) States are required to make reasonable efforts to find adoptive families for all children, including older children, for whom reunification with their biological family is not in the best interests of the child. However, some older children will continue to live in foster care. These children should be enrolled in an Independent Living program designed and conducted by State and local government to help prepare them for employment, postsecondary education, and successful management of adult responsibilities.

(2) About 20,000 adolescents leave the Nation’s foster care system each year because they have reached 18 years of age and are expected to support themselves.

(3) Congress has received extensive information that adolescents leaving foster care have significant difficulty making a successful transition to adulthood; this information shows that children aging out of foster care show high rates of homelessness, non-marital childbearing, poverty, and delinquent or criminal behavior; they are also frequently the target of crime and physical assaults.

(4) The Nation’s State and local governments, with financial support from the Federal Government, should offer an extensive program of education, training,

employment, and financial support for young adults leaving foster care, with participation in such program beginning several years before high school graduation and continuing, as needed, until the young adults emancipated from foster care establish independence or reach 21 years of age.

(b) IMPROVED INDEPENDENT LIVING PROGRAM.—Section 477 of the Social Security Act (42 U.S.C. 677) is amended to read as follows:

**“SEC. 477. INDEPENDENT LIVING PROGRAM.**

“(a) PURPOSE.—The purpose of this section is to provide States with flexible funding that will enable programs to be designed and conducted—

“(1) to identify children who are likely to remain in foster care until 18 years of age and to design programs that help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills, substance abuse prevention, and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention);

“(2) to help children who are likely to remain in foster care until 18 years of age receive the education, training, and services necessary to obtain employment;

“(3) to help children who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions;

“(4) to provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults; and

“(5) to provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve self-sufficiency and to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood.

**“(b) APPLICATIONS.—**

“(1) IN GENERAL.—A State may apply for funds from its allotment under subsection (c) for a period of 5 consecutive fiscal years by submitting to the Secretary, in writing, a plan that meets the requirements of paragraph (2) and the certifications required by paragraph (3) with respect to the plan.

“(2) STATE PLAN.—A plan meets the requirements of this paragraph if the plan specifies which State agency or agencies will administer, supervise, or oversee the programs carried out under the plan, and describes how the State intends to do the following:

“(A) Design and deliver programs to achieve the purposes of this section.

“(B) Ensure that all political subdivisions in the State are served by the program, though not necessarily in a uniform manner.

“(C) Ensure that the programs serve children of various ages and at various stages of achieving independence.

“(D) Involve the public and private sectors in helping adolescents in foster care achieve independence.

“(E) Use objective criteria for determining eligibility for benefits and services under the programs, and for ensuring fair and equitable treatment of benefit recipients.

“(F) Cooperate in national evaluations of the effects of the programs in achieving the purposes of this section.

“(3) CERTIFICATIONS.—The certifications required by this paragraph with respect to a plan are the following:

“(A) A certification by the chief executive officer of the State that the State will provide assistance and services to children who have left foster care but have not attained 21 years of age.

“(B) A certification by the chief executive officer of the State that not more than 30 percent of the amounts paid to the State from its allotment under subsection (c) for a fiscal year will be expended for room or board for children who have left foster care and have attained 18 years of age but not 21 years of age.

“(C) A certification by the chief executive officer of the State that none of the amounts paid to the State from its allotment under subsection (c) will be expended for room or board for any child who has not attained 18 years of age.

“(D) A certification by the chief executive officer of the State that the State will use training funds provided under the program of Federal pay-

ments for foster care and adoption assistance to provide training to help foster parents, workers in group homes, and case managers understand and address the issues confronting adolescents preparing for independent living, and will, to the extent possible, coordinate such training with the independent living program conducted for adolescents.

“(E) A certification by the chief executive officer of the State that the State has consulted widely with public and private organizations in developing the plan and that the State has given all interested members of the public at least 30 days to submit comments on the plan.

“(F) A certification by the chief executive officer of the State that the State will make every effort to coordinate the State programs receiving funds provided from an allotment made to the State under subsection (c) with other Federal and State programs for youth (especially transitional living youth projects funded under part B of title III of the Juvenile Justice and Delinquency Prevention Act of 1974), abstinence education programs, local housing programs, programs for disabled youth (especially sheltered workshops), and school-to-work programs offered by high schools or local workforce agencies.

“(G) A certification by the chief executive officer of the State that each Indian tribe in the State has been consulted about the programs to be carried out under the plan; that there have been efforts to coordinate the programs with such tribes; and that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State.

“(H) A certification by the chief executive officer of the State that the State will ensure that adolescents participating in the program under this section participate directly in designing their own program activities that prepare them for independent living and that the adolescents accept personal responsibility for living up to their part of the program.

“(I) A certification by the chief executive officer of the State that the State has established and will enforce standards and procedures to prevent fraud and abuse in the programs carried out under the plan.

“(4) APPROVAL.—The Secretary shall approve an application submitted by a State pursuant to paragraph (1) for a period if—

“(A) the application is submitted on or before June 30 of the calendar year in which such period begins; and

“(B) the Secretary finds that the application contains the material required by paragraph (1).

“(5) AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS; NOTIFICATION.—A State with an application approved under paragraph (4) may implement any amendment to the plan contained in the application if the application, incorporating the amendment, would be approvable under paragraph (4). Within 30 days after a State implements any such amendment, the State shall notify the Secretary of the amendment.

“(6) AVAILABILITY.—The State shall make available to the public any application submitted by the State pursuant to paragraph (1), and a brief summary of the plan contained in the application.

“(c) ALLOTMENTS TO STATES.—

“(1) IN GENERAL.—From the amount specified in subsection (h) that remains after applying subsection (g)(2) for a fiscal year, the Secretary shall allot to each State with an application approved under subsection (b) for the fiscal year the amount which bears the same ratio to such remaining amount as the number of children in foster care under a program of the State in the most recent fiscal year for which such information is available bears to the total number of children in foster care in all States for such most recent fiscal year.

“(2) HOLD HARMLESS PROVISION.—The Secretary shall ratably reduce the allotments made to States pursuant to paragraph (1) for a fiscal year to the extent necessary to ensure that the amount allotted to each State under paragraph (1) and this paragraph for the fiscal year is not less than the amount payable to the State under this section (as in effect before the enactment of the Foster Care Independence Act of 1999) for fiscal year 1998.

“(3) REALLOTMENT OF UNUSED FUNDS.—The Secretary shall use the formula provided in paragraph (1) of this subsection to reallocate among the States with applications approved under subsection (b) for a fiscal year any amount allotted to a State under this subsection for the preceding year that is not payable to the State for the preceding year.

“(d) USE OF FUNDS.—

“(1) IN GENERAL.—A State to which an amount is paid from its allotment under subsection (c) may use the amount in any manner that is reasonably calculated to accomplish the purposes of this section.

“(2) NO SUPPLANTATION OF OTHER FUNDS AVAILABLE FOR SAME GENERAL PURPOSES.—The amounts paid to a State from its allotment under subsection (c) shall be used to supplement and not supplant any other funds which are available for the same general purposes in the State.

“(e) PENALTIES.—

“(1) USE OF GRANT IN VIOLATION OF THIS PART.—If the Secretary is made aware, by an audit conducted under chapter 75 of title 31, United States Code, or by any other means, that a program receiving funds from an allotment made to a State under subsection (c) has been operated in a manner that is inconsistent with, or not disclosed in the State application approved under subsection (b), the Secretary shall assess a penalty against the State in an amount equal to not less than 1 percent and not more than 5 percent of the amount of the allotment.

“(2) FAILURE TO COMPLY WITH DATA REPORTING REQUIREMENT.—The Secretary shall assess a penalty against a State that fails during a fiscal year to comply with an information collection plan implemented under subsection (f) in an amount equal to not less than 1 percent and not more than 5 percent of the amount allotted to the State for the fiscal year.

“(3) PENALTIES BASED ON DEGREE OF NONCOMPLIANCE.—The Secretary shall assess penalties under this subsection based on the degree of noncompliance.

“(f) DATA COLLECTION AND PERFORMANCE MEASUREMENT.—

“(1) IN GENERAL.—The Secretary, in consultation with State and local public officials responsible for administering independent living and other child welfare programs, child welfare advocates, members of Congress, youth service providers, and researchers, shall—

“(A) develop outcome measures (including measures of educational attainment, employment, avoidance of dependency, homelessness, nonmarital childbirth, and high-risk behaviors) that can be used to assess the performance of States in operating independent living programs;

“(B) identify data elements needed to track—

“(i) the number and characteristics of children receiving services under this section;

“(ii) the type and quantity of services being provided; and

“(iii) State performance on the outcome measures; and

“(C) develop and implement a plan to collect the needed information beginning with the 2nd fiscal year beginning after the date of the enactment of this section.

“(2) REPORT TO THE CONGRESS.—Within 12 months after the date of the enactment of this section, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the plans and timetable for collecting from the States the information described in paragraph (1).

“(g) EVALUATIONS.—

“(1) IN GENERAL.—The Secretary shall conduct evaluations of such State programs funded under this section as the Secretary deems to be innovative or of potential national significance. The evaluation of any such program shall include information on the effects of the program on education, employment, and personal development. To the maximum extent practicable, the evaluations shall be based on rigorous scientific standards including random assignment to treatment and control groups. The Secretary is encouraged to work directly with State and local governments to design methods for conducting the evaluations, directly or by grant, contract, or cooperative agreement.

“(2) FUNDING OF EVALUATIONS.—The Secretary shall reserve 1.5 percent of the amount specified in subsection (h) for a fiscal year to carry out, during the fiscal year, evaluation, technical assistance, performance measurement, and data collection activities related to this section, directly or through grants, contracts, or cooperative agreements with appropriate entities.

“(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section and for payments to States under section 474(a)(4), there are authorized to be appropriated to the Secretary \$140,000,000 for each fiscal year.”.

(c) PAYMENTS TO STATES.—Section 474(a)(4) of such Act (42 U.S.C. 674(a)(4)) is amended to read as follows:

“(4) the lesser of—

“(A) 80 percent of the amount (if any) by which—

“(i) the total amount expended by the State during the fiscal year in which the quarter occurs to carry out programs in accordance with the State application approved under section 477(b) for the period in which the quarter occurs (including any amendment that meets the requirements of section 477(b)(5)); exceeds

“(ii) the total amount of any penalties assessed against the State under section 477(e) during the fiscal year in which the quarter occurs; or

“(B) the amount allotted to the State under section 477 for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for all prior quarters in the fiscal year.”.

(d) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue such regulations as may be necessary to carry out the amendments made by this section.

(e) SENSE OF THE CONGRESS.—It is the sense of the Congress that States should provide medical assistance under the State plan approved under title XIX of the Social Security Act to 18-, 19-, and 20-year-olds who have been emancipated from foster care.

## Subtitle B—Related Foster Care Provision

### SEC. 111. INCREASE IN AMOUNT OF ASSETS ALLOWABLE FOR CHILDREN IN FOSTER CARE.

Section 472(a) of the Social Security Act (42 U.S.C. 672(a)) is amended by adding at the end the following: “In determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than \$10,000 shall be considered to be a child whose resources have a combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of such section 402(a)(7)(B)).”.

## Subtitle C—Medicaid Amendments

### SEC. 121. STATE OPTION OF MEDICAID COVERAGE FOR ADOLESCENTS LEAVING FOSTER CARE.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii))—

(A) by striking “or” at the end of subclause (XIII);

(B) by adding “or” at the end of subclause (XIV); and

(C) by adding at the end the following new subclause:

“(XV) who are independent foster care adolescents (as defined in (section 1905(v)(1)), or who are within any reasonable categories of such adolescents specified by the State;”; and

(2) by adding at the end of section 1905 (42 U.S.C. 1396d) the following new subsection:

“(v)(1) For purposes of this title, the term ‘independent foster care adolescent’ means an individual—

“(A) who is under 21 years of age;

“(B) who, on the individual’s 18th birthday, was in foster care under the responsibility of a State; and

“(C) whose assets, resources, and income do not exceed such levels (if any) as the State may establish consistent with paragraph (2).

“(2) The levels established by a State under paragraph (1)(C) may not be less than the corresponding levels applied by the State under section 1931(b).

“(3) A State may limit the eligibility of independent foster care adolescents under section 1902(a)(10)(A)(ii)(XV) to those individuals with respect to whom foster care maintenance payments or independent living services were furnished under a program funded under part E of title IV before the date the individuals attained 18 years of age.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to medical assistance for items and services furnished on or after October 1, 1999.

## TITLE II—SSI FRAUD PREVENTION

### Subtitle A—Fraud Prevention and Related Provisions

#### SEC. 201. LIABILITY OF REPRESENTATIVE PAYEES FOR OVERPAYMENTS TO DECEASED RECIPIENTS.

(a) AMENDMENT TO TITLE II.—Section 204(a)(2) of the Social Security Act (42 U.S.C. 404(a)(2)) is amended by adding at the end the following new sentence: “If any payment of more than the correct amount is made to a representative payee on behalf of an individual after the individual’s death, the representative payee shall be liable for the repayment of the overpayment, and the Commissioner of Social Security shall establish an overpayment control record under the social security account number of the representative payee.”.

(b) AMENDMENT TO TITLE XVI.—Section 1631(b)(2) of such Act (42 U.S.C. 1383(b)(2)) is amended by adding at the end the following new sentence: “If any payment of more than the correct amount is made to a representative payee on behalf of an individual after the individual’s death, the representative payee shall be liable for the repayment of the overpayment, and the Commissioner of Social Security shall establish an overpayment control record under the social security account number of the representative payee.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to overpayments made 12 months or more after the date of the enactment of this Act.

#### SEC. 202. RECOVERY OF OVERPAYMENTS OF SSI BENEFITS FROM LUMP SUM SSI BENEFIT PAYMENTS.

(a) IN GENERAL.—Section 1631(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1383(b)(1)(B)(ii)) is amended—

(1) by inserting “monthly” before “benefit payments”; and

(2) by inserting “and in the case of an individual or eligible spouse to whom a lump sum is payable under this title (including under section 1616(a) of this Act or under an agreement entered into under section 212(a) of Public Law 93–66) shall, as at least one means of recovering such overpayment, make the adjustment or recovery from the lump sum payment in an amount equal to not less than the lesser of the amount of the overpayment or 50 percent of the lump sum payment,” before “unless fraud”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 12 months after the date of the enactment of this Act and shall apply to amounts incorrectly paid which remain outstanding on or after such date.

#### SEC. 203. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) IN GENERAL.—Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following:

“(4)(A) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, 3717, and 3718 of title 31, United States Code, and in section 5514 of title 5, United States Code, all as in effect immediately after the enactment of the Debt Collection Improvement Act of 1996.

“(B) For purposes of subparagraph (A), the term ‘delinquent amount’ means an amount—

“(i) in excess of the correct amount of payment under this title;

“(ii) paid to a person after such person has attained 18 years of age; and

“(iii) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title.”.

(b) CONFORMING AMENDMENTS.—Section 3701(d)(2) of title 31, United States Code, is amended by striking “section 204(f)” and inserting “sections 204(f) and 1631(b)(4)”.

(c) TECHNICAL AMENDMENTS.—Section 204(f) of the Social Security Act (42 U.S.C. 404(f)) is amended—

(1) by striking “3711(e)” and inserting “3711(f)”; and

(2) by inserting “all” before “as in effect”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt outstanding on or after the date of the enactment of this Act.

**SEC. 204. REQUIREMENT TO PROVIDE STATE PRISONER INFORMATION TO FEDERAL AND FEDERALLY ASSISTED BENEFIT PROGRAMS.**

Section 1611(e)(1)(I)(ii)(II) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)) is amended by striking “is authorized to” and inserting “shall”.

**SEC. 205. RULES RELATING TO COLLECTION OF OVERPAYMENTS FROM INDIVIDUALS CONVICTED OF CRIMES.**

(a) WAIVERS INAPPLICABLE TO OVERPAYMENTS BY REASON OF PAYMENT IN MONTHS IN WHICH BENEFICIARY IS A PRISONER OR A FUGITIVE.—

(1) AMENDMENT TO TITLE II.—Section 204(b) of the Social Security Act (42 U.S.C. 404(b)) is amended—

(A) by inserting “(1)” after “(b)”; and

(B) by adding at the end the following:

“(2) Paragraph (1) shall not apply with respect to any payment to any person made during a month in which such benefit was not payable under section 202(x).”.

(2) AMENDMENT TO TITLE XVI.—Section 1631(b)(1)(B)(i) of such Act (42 U.S.C. 1383(b)(1)(B)(i)) is amended by inserting “unless (I) section 1611(e)(1) prohibits payment to the person of a benefit under this title for the month by reason of confinement of a type described in clause (i) or (ii) of section 202(x)(1)(A), or (II) section 1611(e)(5) prohibits payment to the person of a benefit under this title for the month,” after “administration of this title,”.

(b) 10-YEAR PERIOD OF INELIGIBILITY FOR PERSONS FAILING TO NOTIFY COMMISSIONER OF OVERPAYMENTS IN MONTHS IN WHICH BENEFICIARY IS A PRISONER OR A FUGITIVE OR FAILING TO COMPLY WITH REPAYMENT SCHEDULE FOR SUCH OVERPAYMENTS.—

(1) AMENDMENT TO TITLE II.—Section 202(x) of such Act (42 U.S.C. 402(x)) is amended by adding at the end the following:

“(4)(A) No person shall be considered entitled to monthly insurance benefits under this section based on the person’s disability or to disability insurance benefits under section 223 otherwise payable during the 10-year period that begins on the date the person—

“(i) knowingly fails to timely notify the Commissioner of Social Security, in connection with any application for benefits under this title, of any prior receipt by such person of any benefit under this title or title XVI in any month in which such benefit was not payable under the preceding provisions of this subsection, or

“(ii) knowingly fails to comply with any schedule imposed by the Commissioner which is for repayment of overpayments comprised of payments described in subparagraph (A) and which is in compliance with section 204.

“(B) The Commissioner of Social Security shall, in addition to any other relevant factors, take into account any mental or linguistic limitations of a person (including any lack of facility with the English language) in determining whether the person has knowingly failed to comply with a requirement of clause (i) or (ii) of subparagraph (A).”.

(2) AMENDMENT TO TITLE XVI.—Section 1611(e)(1) of such Act (42 U.S.C. 1382(e)(1)) is amended by adding at the end the following:

“(J)(i) A person shall not be considered an eligible individual or eligible spouse for purposes of benefits under this title by reason of disability, during the 10-year period that begins on the date the person—

“(I) knowingly fails to timely notify the Commissioner of Social Security, in an application for benefits under this title, of any prior receipt by the person of a benefit under this title or title II in a month in which payment to the person of a benefit under this title was prohibited by—

“(aa) the preceding provisions of this paragraph by reason of confinement of a type described in clause (i) or (ii) of section 202(x)(1)(A); or

“(bb) section 1611(e)(4); or

“(II) knowingly fails to comply with any schedule imposed by the Commissioner which is for repayment of overpayments comprised of payments described in clause (i) of this subparagraph and which is in compliance with section 1631(b).

“(ii) The Commissioner of Social Security shall, in addition to any other relevant factors, take into account any mental or linguistic limitations of a person (including any lack of facility with the English language) in determining whether the person has knowingly failed to comply with a requirement of subclause (I) or (II) of clause (i).”.

(c) CONTINUED COLLECTION EFFORTS AGAINST PRISONERS.—

(1) AMENDMENT TO TITLE II.—Section 204(b) of such Act (42 U.S.C. 404(b)), as amended by subsection (a)(1) of this section, is amended further by adding at the end the following new paragraph:

“(3) The Commissioner shall not refrain from recovering overpayments from resources currently available to any overpaid person or to such person’s estate solely because such individual is confined as described in clause (i) or (ii) of section 202(x)(1)(A).”.

(2) AMENDMENT TO TITLE XVI.—Section 1631(b)(1)(A) of such Act (42 U.S.C. 1383(b)(1)(A)) is amended by adding after and below clause (ii) the following flush left sentence:

“The Commissioner shall not refrain from recovering overpayments from resources currently available to any individual solely because the individual is confined as described in clause (i) or (ii) of section 202(x)(1)(A).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to overpayments made in, and to benefits payable for, months beginning 24 months or more after the date of the enactment of this Act.

**SEC. 206. TREATMENT OF ASSETS HELD IN TRUST UNDER THE SSI PROGRAM.**

(a) TREATMENT AS RESOURCE.—Section 1613 of the Social Security Act (42 U.S.C. 1382b) is amended by adding at the end the following:

“Trusts

“(e)(1) In determining the resources of an individual, paragraph (3) shall apply to a trust (other than a trust described in paragraph (5)) established by the individual.

“(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual (or of the individual’s spouse) are transferred to the trust other than by will.

“(B) In the case of an irrevocable trust to which are transferred the assets of an individual (or of the individual’s spouse) and the assets of any other person, this subsection shall apply to the portion of the trust attributable to the assets of the individual (or of the individual’s spouse).

“(C) This subsection shall apply to a trust without regard to—

“(i) the purposes for which the trust is established;

“(ii) whether the trustees have or exercise any discretion under the trust;

“(iii) any restrictions on when or whether distributions may be made from the trust; or

“(iv) any restrictions on the use of distributions from the trust.

“(3)(A) In the case of a revocable trust established by an individual, the corpus of the trust shall be considered a resource available to the individual.

“(B) In the case of an irrevocable trust established by an individual, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual or the individual’s spouse, the portion of the corpus from which payment to or for the benefit of the individual or the individual’s spouse could be made shall be considered a resource available to the individual.

“(4) The Commissioner of Social Security may waive the application of this subsection with respect to an individual if the Commissioner determines that such application would work an undue hardship (as determined on the basis of criteria established by the Commissioner) on the individual.

“(5) This subsection shall not apply to a trust described in subparagraph (A) or (C) of section 1917(d)(4).

“(6) For purposes of this subsection—

“(A) the term ‘trust’ includes any legal instrument or device that is similar to a trust;

“(B) the term ‘corpus’ means, with respect to a trust, all property and other interests held by the trust, including accumulated earnings and any other addition to the trust after its establishment (except that such term does not include any such earnings or addition in the month in which the earnings or addition is credited or otherwise transferred to the trust); and

“(C) the term ‘asset’ includes any income or resource of the individual or of the individual’s spouse, including—

“(i) any income excluded by section 1612(b);

“(ii) any resource otherwise excluded by this section; and

“(iii) any other payment or property to which the individual or the individual’s spouse is entitled but does not receive or have access to because of action by—

“(I) the individual or spouse;

“(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, the individual or spouse; or

“(III) a person or entity (including a court) acting at the direction of, or on the request of, the individual or spouse.”.

(b) TREATMENT AS INCOME.—Section 1612(a)(2) of such Act (42 U.S.C. 1382a(a)(2)) is amended—

- (1) by striking “and” at the end of subparagraph (E);
- (2) by striking the period at the end of subparagraph (F) and inserting “; and”; and
- (3) by adding at the end the following:

“(G) any earnings of, and additions to, the corpus of a trust established by an individual (within the meaning of section 1613(e)), of which the individual is a beneficiary, to which section 1613(e) applies, and, in the case of an irrevocable trust, with respect to which circumstances exist under which a payment from the earnings or additions could be made to or for the benefit of the individual.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2000, and shall apply to trusts established on or after such date.

**SEC. 207. DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE UNDER THE SSI PROGRAM.**

(a) IN GENERAL.—Section 1613(c) of the Social Security Act (42 U.S.C. 1382b(c)) is amended—

- (1) in the caption, by striking “Notification of Medicaid Policy Restricting Eligibility of Institutionalized Individuals for Benefits Based on”;
- (2) in paragraph (1)—

(A) in subparagraph (A)—

- (i) by inserting “paragraph (1) and” after “provisions of”;
- (ii) by striking “title XIX” the first place it appears and inserting “this title and title XIX, respectively.”;
- (iii) by striking “subparagraph (B)” and inserting “clause (ii)”;
- (iv) by striking “paragraph (2)” and inserting “subparagraph (B)”;

(B) in subparagraph (B)—

- (i) by striking “by the State agency”; and
- (ii) by striking “section 1917(c)” and all that follows and inserting “paragraph (1) or section 1917(c).”; and

(C) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) in paragraph (2)—

- (A) by striking “(2)” and inserting “(B)”; and
- (B) by striking “paragraph (1)(B)” and inserting “subparagraph (A)(ii)”;

(4) by striking “(c)(1)” and inserting “(2)(A)”;

(5) by inserting before paragraph (2) (as so redesignated by paragraph (4) of this subsection) the following:

“(c)(1)(A)(i) If an individual or the spouse of an individual disposes of resources for less than fair market value on or after the look-back date described in clause (ii)(I), the individual is ineligible for benefits under this title for months during the period beginning on the date described in clause (iii) and equal to the number of months calculated as provided in clause (iv).

“(ii)(I) The look-back date described in this subclause is a date that is 36 months before the date described in subclause (II).

“(II) The date described in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the individual (or the spouse of the individual) disposes of resources for less than fair market value.

“(iii) The date described in this clause is the first day of the first month in or after which resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

“(iv) The number of months calculated under this clause shall be equal to—

“(I) the total, cumulative uncompensated value of all resources so disposed of by the individual (or the spouse of the individual) on or after the look-back date described in clause (ii)(I); divided by

“(II) the amount of the maximum monthly benefit payable under section 1611(b), plus the amount (if any) of the maximum State supplementary payment corresponding to the State’s payment level applicable to the individual’s living arrangement and eligibility category that would otherwise be payable to the individual by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66, for the month in which occurs the date described in clause (ii)(II),

rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.

“(B)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to the resource is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered but for the application of subsection (e)(4)).

“(ii) In the case of a trust established by an individual or an individual’s spouse (within the meaning of subsection (e)), if from such portion of the trust, if any, that is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered but for the application of subsection (e)(4)) or the residue of the portion on the termination of the trust—

“(I) there is made a payment other than to or for the benefit of the individual; or

“(II) no payment could under any circumstance be made to the individual, then, for purposes of this subsection, the payment described in clause (I) or the foreclosure of payment described in clause (II) shall be considered a transfer of resources by the individual or the individual’s spouse as of the date of the payment or foreclosure, as the case may be.

“(C) An individual shall not be ineligible for benefits under this title by reason of the application of this paragraph to a disposal of resources by the individual or the spouse of the individual, to the extent that—

“(i) the resources are a home and title to the home was transferred to—

“(I) the spouse of the transferor;

“(II) a child of the transferor who has not attained 21 years of age, or is blind or disabled;

“(III) a sibling of the transferor who has an equity interest in such home and who was residing in the transferor’s home for a period of at least 1 year immediately before the date the transferor becomes an institutionalized individual; or

“(IV) a son or daughter of the transferor (other than a child described in subclause (II)) who was residing in the transferor’s home for a period of at least 2 years immediately before the date the transferor becomes an institutionalized individual, and who provided care to the transferor which permitted the transferor to reside at home rather than in such an institution or facility;

“(ii) the resources—

“(I) were transferred to the transferor’s spouse or to another for the sole benefit of the transferor’s spouse;

“(II) were transferred from the transferor’s spouse to another for the sole benefit of the transferor’s spouse;

“(III) were transferred to, or to a trust (including a trust described in section 1917(d)(4)) established solely for the benefit of, the transferor’s child who is blind or disabled; or

“(IV) were transferred to a trust (including a trust described in section 1917(d)(4)) established solely for the benefit of an individual who has not attained 65 years of age and who is disabled;

“(iii) a satisfactory showing is made to the Commissioner of Social Security (in accordance with regulations promulgated by the Commissioner) that—

“(I) the individual who disposed of the resources intended to dispose of the resources either at fair market value, or for other valuable consideration;

“(II) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title; or

“(III) all resources transferred for less than fair market value have been returned to the transferor; or

“(iv) the Commissioner determines, under procedures established by the Commissioner, that the denial of eligibility would work an undue hardship as determined on the basis of criteria established by the Commissioner.

“(D) For purposes of this subsection, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be disposed of by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates the individual’s ownership or control of such resource.

“(E) In the case of a transfer by the spouse of an individual that results in a period of ineligibility for the individual under this subsection, the Commissioner shall apportion the period (or any portion of the period) among the individual and the individual’s spouse if the spouse becomes eligible for benefits under this title.

“(F) For purposes of this paragraph—

“(i) the term ‘benefits under this title’ includes payments of the type described in section 1616(a) of this Act and of the type described in section 212(b) of Public Law 93–66;

“(ii) the term ‘institutionalized individual’ has the meaning given such term in section 1917(e)(3); and

“(iii) the term ‘trust’ has the meaning given such term in subsection (e)(6)(A) of this section.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to disposals made on or after the date of enactment of this Act.

**SEC. 208. ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS.**

(a) **IN GENERAL.**—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129 the following:

**“SEC. 1129A. ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS.**

“(a) **IN GENERAL.**—Any person who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or the amount of—

“(1) monthly insurance benefits under title II; or

“(2) benefits or payments under title XVI,

that the person knows or should know is false or misleading or knows or should know omits a material fact or makes such a statement with knowing disregard for the truth shall be subject to, in addition to any other penalties that may be prescribed by law, a penalty described in subsection (b) to be imposed by the Commissioner of Social Security.

“(b) **PENALTY.**—The penalty described in this subsection is—

“(1) nonpayment of benefits under title II that would otherwise be payable to the person; and

“(2) ineligibility for cash benefits under title XVI,

for each month that begins during the applicable period described in subsection (c).

“(c) **DURATION OF PENALTY.**—The duration of the applicable period, with respect to a determination by the Commissioner under subsection (a) that a person has engaged in conduct described in subsection (a), shall be—

“(1) 6 consecutive months, in the case of a first such determination with respect to the person;

“(2) 12 consecutive months, in the case of a second such determination with respect to the person; and

“(3) 24 consecutive months, in the case of a third or subsequent such determination with respect to the person.

“(d) **EFFECT ON OTHER ASSISTANCE.**—A person subject to a period of nonpayment of benefits under title II or ineligibility for title XVI benefits by reason of this section nevertheless shall be considered to be eligible for and receiving such benefits, to the extent that the person would be receiving or eligible for such benefits but for the imposition of the penalty, for purposes of—

“(1) determination of the eligibility of the person for benefits under titles XVIII and XIX; and

“(2) determination of the eligibility or amount of benefits payable under title II or XVI to another person.

“(e) **DEFINITION.**—In this section, the term ‘benefits under title XVI’ includes State supplementary payments made by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66.

“(f) **CONSULTATIONS.**—The Commissioner of Social Security shall consult with the Inspector General of the Social Security Administration regarding initiating actions under this section.”.

(b) **CONFORMING AMENDMENT PRECLUDING DELAYED RETIREMENT CREDIT FOR ANY MONTH TO WHICH A NONPAYMENT OF BENEFITS PENALTY APPLIES.**—Section 202(w)(2)(B) of such Act (42 U.S.C. 402(w)(2)(B)) is amended—

(1) by striking “and” at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting “, and”; and

(3) by adding at the end the following:

“(iii) such individual was not subject to a penalty imposed under section 1129A.”.

(c) **ELIMINATION OF REDUNDANT PROVISION.**—Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended—

(1) by striking paragraph (4);

(2) in paragraph (6)(A)(i), by striking “(5)” and inserting “(4)”; and

(3) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(d) REGULATIONS.—Within 6 months after the date of the enactment of this Act, the Commissioner of Social Security shall develop regulations that prescribe the administrative process for making determinations under section 1129A of the Social Security Act (including when the applicable period in subsection (c) of such section shall commence), and shall provide guidance on the exercise of discretion as to whether the penalty should be imposed in particular cases.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to statements and representations made on or after the date of the enactment of this Act.

**SEC. 209. EXCLUSION OF REPRESENTATIVES AND HEALTH CARE PROVIDERS CONVICTED OF VIOLATIONS FROM PARTICIPATION IN SOCIAL SECURITY PROGRAMS.**

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301–1320b–17) is amended by adding at the end the following:

“EXCLUSION OF REPRESENTATIVES AND HEALTH CARE PROVIDERS CONVICTED OF VIOLATIONS FROM PARTICIPATION IN SOCIAL SECURITY PROGRAMS

“SEC. 1148. (a) IN GENERAL.—The Commissioner of Social Security shall exclude from participation in the social security programs any representative or health care provider—

“(1) who is convicted of a violation of section 208 or 1632 of this Act,

“(2) who is convicted of any violation under title 18, United States Code, relating to an initial application for or continuing entitlement to, or amount of, benefits under title II of this Act, or an initial application for or continuing eligibility for, or amount of, benefits under title XVI of this Act, or

“(3) who the Commissioner determines has committed an offense described in section 1129(a)(1) of this Act.

“(b) NOTICE, EFFECTIVE DATE, AND PERIOD OF EXCLUSION.—(1) An exclusion under this section shall be effective at such time, for such period, and upon such reasonable notice to the public and to the individual excluded as may be specified in regulations consistent with paragraph (2).

“(2) Such an exclusion shall be effective with respect to services furnished to any individual on or after the effective date of the exclusion. Nothing in this section may be construed to preclude, in determining disability under title II or title XVI, consideration of any medical evidence derived from services provided by a health care provider before the effective date of the exclusion of the health care provider under this section.

“(3)(A) The Commissioner shall specify, in the notice of exclusion under paragraph (1), the period of the exclusion.

“(B) Subject to subparagraph (C), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be five years, except that the Commissioner may waive the exclusion in the case of an individual who is the sole source of essential services in a community. The Commissioner’s decision whether to waive the exclusion shall not be reviewable.

“(C) In the case of an exclusion of an individual under subsection (a) based on a conviction or a determination described in subsection (a)(3) occurring on or after the date of the enactment of this section, if the individual has (before, on, or after such date of enactment) been convicted, or if such a determination has been made with respect to the individual—

“(i) on one previous occasion of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be not less than 10 years, or

“(ii) on 2 or more previous occasions of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be permanent.

“(c) NOTICE TO STATE AGENCIES.—The Commissioner shall promptly notify each appropriate State agency employed for the purpose of making disability determinations under section 221 or 1633(a)—

“(1) of the fact and circumstances of each exclusion effected against an individual under this section, and

“(2) of the period (described in subsection (b)(3)) for which the State agency is directed to exclude the individual from participation in the activities of the State agency in the course of its employment.

“(d) NOTICE TO STATE LICENSING AGENCIES.—The Commissioner shall—

“(1) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of an individual excluded from participation under this section of the fact and circumstances of the exclusion,

“(2) request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and

“(3) request that the State or local agency or authority keep the Commissioner and the Inspector General of the Social Security Administration fully and currently informed with respect to any actions taken in response to the request.

“(e) NOTICE, HEARING, AND JUDICIAL REVIEW.—(1) Any individual who is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Commissioner to the same extent as is provided in section 205(b), and to judicial review of the Commissioner’s final decision after such hearing as is provided in section 205(g).

“(2) The provisions of section 205(h) shall apply with respect to this section to the same extent as it is applicable with respect to title II.

“(f) APPLICATION FOR TERMINATION OF EXCLUSION.—(1) An individual excluded from participation under this section may apply to the Commissioner, in the manner specified by the Commissioner in regulations and at the end of the minimum period of exclusion provided under subsection (b)(3) and at such other times as the Commissioner may provide, for termination of the exclusion effected under this section.

“(2) The Commissioner may terminate the exclusion if the Commissioner determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Commissioner at the time of the exclusion, that—

“(A) there is no basis under subsection (a) for a continuation of the exclusion, and

“(B) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

“(3) The Commissioner shall promptly notify each State agency employed for the purpose of making disability determinations under section 221 or 1633(a) of the fact and circumstances of each termination of exclusion made under this subsection.

“(g) AVAILABILITY OF RECORDS OF EXCLUDED REPRESENTATIVES AND HEALTH CARE PROVIDERS.—Nothing in this section shall be construed to have the effect of limiting access by any applicant or beneficiary under title II or XVI, any State agency acting under section 221 or 1633(a), or the Commissioner to records maintained by any representative or health care provider in connection with services provided to the applicant or beneficiary prior to the exclusion of such representative or health care provider under this section.

“(h) REPORTING REQUIREMENT.—Any representative or health care provider participating in, or seeking to participate in, a social security program shall inform the Commissioner, in such form and manner as the Commissioner shall prescribe by regulation, whether such representative or health care provider has been convicted of a violation described in subsection (a).

“(i) DELEGATION OF AUTHORITY.—The Commissioner may delegate authority granted by this section to the Inspector General.

“(j) DEFINITIONS.—For purposes of this section:

“(1) EXCLUDE.—The term ‘exclude’ from participation means—

“(A) in connection with a representative, to prohibit from engaging in representation of an applicant for, or recipient of, benefits, as a representative payee under section 205(j) or 1631(a)(2)(A)(ii), or otherwise as a representative, in any hearing or other proceeding relating to entitlement to benefits, and

“(B) in connection with a health care provider, to prohibit from providing items or services to an applicant for, or recipient of, benefits for the purpose of assisting such applicant or recipient in demonstrating disability.

“(2) SOCIAL SECURITY PROGRAM.—The term ‘social security program’ means the program providing for monthly insurance benefits under title II, and the program providing for monthly supplemental security income benefits to individuals under title XVI (including State supplementary payments made by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66).

“(3) CONVICTED.—An individual is considered to have been ‘convicted’ of a violation—

“(A) when a judgment of conviction has been entered against the individual by a Federal, State, or local court, except if the judgment of conviction has been set aside or expunged;

“(B) when there has been a finding of guilt against the individual by a Federal, State, or local court;

“(C) when a plea of guilty or nolo contendere by the individual has been accepted by a Federal, State, or local court; or

“(D) when the individual has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to convictions of violations described in paragraphs (1) and (2) of section 1148(a) of the Social Security Act and determinations described in paragraph (3) of such section occurring on or after the date of the enactment of this Act.

**SEC. 210. STATE DATA EXCHANGES.**

Whenever the Commissioner of Social Security requests information from a State for the purpose of ascertaining an individual's eligibility for benefits (or the correct amount of such benefits) under title II or XVI of the Social Security Act, the standards of the Commissioner promulgated pursuant to section 1106 of such Act or any other Federal law for the use, safeguarding, and disclosure of information are deemed to meet any standards of the State that would otherwise apply to the disclosure of information by the State to the Commissioner.

**SEC. 211. STUDY ON POSSIBLE MEASURES TO IMPROVE FRAUD PREVENTION AND ADMINISTRATIVE PROCESSING.**

(a) **STUDY.**—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration and the Attorney General, shall conduct a study of possible measures to improve—

(1) prevention of fraud on the part of individuals entitled to disability benefits under section 223 of the Social Security Act or benefits under section 202 of such Act based on the beneficiary's disability, individuals eligible for supplemental security income benefits under title XVI of such Act, and applicants for any such benefits; and

(2) timely processing of reported income changes by individuals receiving such benefits.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report that contains the results of the Commissioner's study under subsection (a). The report shall contain such recommendations for legislative and administrative changes as the Commissioner considers appropriate.

**SEC. 212. ANNUAL REPORT ON AMOUNTS NECESSARY TO COMBAT FRAUD.**

(a) **IN GENERAL.**—Section 704(b)(1) of the Social Security Act (42 U.S.C. 904(b)(1)) is amended—

(1) by inserting “(A)” after “(b)(1)”; and

(2) by adding at the end the following new subparagraph:

“(B) The Commissioner shall include in the annual budget prepared pursuant to subparagraph (A) an itemization of the amount of funds required by the Social Security Administration for the fiscal year covered by the budget to support efforts to combat fraud committed by applicants and beneficiaries.”

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to annual budgets prepared for fiscal years after fiscal year 1999.

**SEC. 213. COMPUTER MATCHES WITH MEDICARE AND MEDICAID INSTITUTIONALIZATION DATA.**

(a) **IN GENERAL.**—Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)), as amended by section 205(b)(2) of this Act, is further amended by adding at the end the following:

“(K) For the purpose of carrying out this paragraph, the Commissioner of Social Security shall conduct periodic computer matches with data maintained by the Secretary of Health and Human Services under title XVIII or XIX. The Secretary shall furnish to the Commissioner, in such form and manner and under such terms as the Commissioner and the Secretary shall mutually agree, such information as the Commissioner may request for this purpose. Information obtained pursuant to such a match may be substituted for the physician's certification otherwise required under subparagraph (G)(i).”

(b) **CONFORMING AMENDMENT.**—Section 1611(e)(1)(G) of such Act (42 U.S.C. 1382(e)(1)(G)) is amended by striking “subparagraph (H)” and inserting “subparagraph (H) or (K)”.

**SEC. 214. ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.**

Section 1631(e)(1)(B) of the Social Security Act (42 U.S.C. 1383(e)(1)(B)) is amended—

(1) by striking “(B) The” and inserting “(B)(i) The”; and

(2) by adding at the end the following new clause:

“(ii)(I) The Commissioner of Social Security may require each applicant for, or recipient of, benefits under this title to provide authorization by the applicant or recipient (or by any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient for such benefits) for the Commissioner to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (or any such other person) whenever the Commissioner determines the record is needed in connection with a determination with respect to such eligibility or the amount of such benefits.

“(II) Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act, an authorization provided by an applicant or recipient (or any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient) pursuant to subclause (I) of this clause shall remain effective until the earliest of—

“(aa) the rendering of a final adverse decision on the applicant’s application for eligibility for benefits under this title;

“(bb) the cessation of the recipient’s eligibility for benefits under this title; or

“(cc) the express revocation by the applicant or recipient (or such other person referred to in subclause (I)) of the authorization, in a written notification to the Commissioner.

“(III)(aa) An authorization obtained by the Commissioner of Social Security pursuant to this clause shall be considered to meet the requirements of the Right to Financial Privacy Act for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

“(bb) The certification requirements of section 1103(b) of the Right to Financial Privacy Act shall not apply to requests by the Commissioner of Social Security pursuant to an authorization provided under this clause.

“(cc) A request by the Commissioner pursuant to an authorization provided under this clause is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act and the flush language of section 1102 of such Act.

“(IV) The Commissioner shall inform any person who provides authorization pursuant to this clause of the duration and scope of the authorization.

“(V) If an applicant for, or recipient of, benefits under this title (or any such other person referred to in subclause (I)) refuses to provide, or revokes, any authorization made by the applicant or recipient for the Commissioner of Social Security to obtain from any financial institution any financial record, the Commissioner may, on that basis, determine that the applicant or recipient is ineligible for benefits under this title.”.

## **Subtitle B—Benefits for Filipino Veterans of World War II**

### **SEC. 251. PROVISION OF REDUCED SSI BENEFIT TO CERTAIN INDIVIDUALS WHO PROVIDED SERVICE TO THE ARMED FORCES OF THE UNITED STATES IN THE PHILIPPINES DURING WORLD WAR II AFTER THEY MOVE BACK TO THE PHILIPPINES.**

(a) **IN GENERAL.**—Notwithstanding sections 1611(f)(1) and 1614(a)(1)(B)(i) of the Social Security Act and sections 401 and 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the eligibility of a qualified individual for benefits under the supplemental security income program under title XVI of the Social Security Act shall not terminate by reason of a change in the place of residence of the individual to the Philippines.

(b) **BENEFIT AMOUNT.**—Notwithstanding subsections (a) and (b) of section 1611 of the Social Security Act, the benefit payable under the supplemental security income program to a qualified individual for any month throughout which the individual resides in the Philippines shall be in an amount equal to 75 percent of the Federal benefit rate under title XVI of such Act for the month, reduced (after disregard of the amount specified in section 1612(b)(2)(A) of such Act) by the amount of the qualified individual’s benefit income for the month.

(c) **DEFINITIONS.**—In this section:

(1) **QUALIFIED INDIVIDUAL.**—The term “qualified individual” means an individual who—

(A) as of the date of the enactment of this Act, is eligible for benefits under the supplemental security income program under title XVI of the Social Security Act on the basis of an application filed before such date;

(B) before December 31, 1946, served in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent military authority in the Army of the United States; and

(C) has not been removed from the United States pursuant to section 237(a) of the Immigration and Nationality Act.

(2) **FEDERAL BENEFIT RATE.**—The term “Federal benefit rate” means, with respect to a month, the amount of the cash benefit (not including any State supplementary payment which is paid by the Commissioner of Social Security pursuant to an agreement under section 1616(a) of the Social Security Act or section 212(b) of Public Law 93–66) payable for the month to an eligible individual with no income.

(3) **BENEFIT INCOME.**—The term “benefit income” means any recurring payment received by a qualified individual as an annuity, pension, retirement, or disability benefit (including any veterans’ compensation or pension, workmen’s compensation payment, old-age, survivors, or disability insurance benefit, railroad retirement annuity or pension, and unemployment insurance benefit), but only if a similar payment was received by the individual from the same (or a related) source during the 12-month period preceding the month in which the individual changes his place of residence from the United States to the Philippines.

(d) **EFFECTIVE DATE.**—This section shall be effective with respect to supplemental security income benefits payable for months beginning after the date that is 1 year after the date of the enactment of this Act, or such earlier date that the Commissioner of Social Security determines is administratively feasible.

## **TITLE III—CHILD SUPPORT**

### **SEC. 301. ELIMINATION OF HOLD HARMLESS PROVISION FOR STATE SHARE OF DISTRIBUTION OF COLLECTED CHILD SUPPORT.**

(a) **IN GENERAL.**—Section 457 of the Social Security Act (42 U.S.C. 657) is amended—

(1) in subsection (a), by striking “subsections (e) and (f)” and inserting “subsections (d) and (e)”;

(2) by striking subsection (d);

(3) in subsection (e), by striking the 2nd sentence; and

(4) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1999.

## **TITLE IV—TECHNICAL CORRECTIONS**

### **SEC. 401. TECHNICAL CORRECTIONS RELATING TO AMENDMENTS MADE BY THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.**

(a) Section 402(a)(1)(B)(iv) of the Social Security Act (42 U.S.C. 602(a)(1)(B)(iv)) is amended by striking “Act” and inserting “section”.

(b) Section 409(a)(7)(B)(i)(II) of the Social Security Act (42 U.S.C. 609(a)(7)(B)(i)(II)) is amended by striking “part” and inserting “section”.

(c) Section 413(g)(1) of the Social Security Act (42 U.S.C. 613(g)(1)) is amended by striking “Act” and inserting “section”.

(d) Section 416 of the Social Security Act (42 U.S.C. 616) is amended by striking “Opportunity Act” and inserting “Opportunity Reconciliation Act” each place such term appears.

(e) Section 431(a)(6) of the Social Security Act (42 U.S.C. 629a(a)(6)) is amended—

(1) by inserting “, as in effect before August 22, 1986” after “482(i)(5)”;

(2) by inserting “, as so in effect” after “482(i)(7)(A)”.

(f) Sections 452(a)(7) and 466(c)(2)(A)(i) of the Social Security Act (42 U.S.C. 652(a)(7) and 666(c)(2)(A)(i)) are each amended by striking “Social Security” and inserting “social security”.

(g) Section 454 of the Social Security Act (42 U.S.C. 654) is amended—

(1) by striking “, or” at the end of each of paragraphs (6)(E)(i) and (19)(B)(i) and inserting “, or”;

(2) in paragraph (9), by striking the comma at the end of each of subparagraphs (A), (B), (C) and inserting a semicolon; and

(3) by striking “, and” at the end of each of paragraphs (19)(A) and (24)(A) and inserting “, and”.

(h) Section 454(24)(B) of the Social Security Act (42 U.S.C. 654(24)(B)) is amended by striking “Opportunity Act” and inserting “Opportunity Reconciliation Act”.

(i) Section 344(b)(1)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (110 Stat. 2236) is amended to read as follows:

“(A) in paragraph (1), by striking subparagraph (B) and inserting the following:

“(B) equal to the percent specified in paragraph (3) of the sums expended during such quarter that are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system (including in such sums the full cost of the hardware components of such system); and”;

(j) Section 457(a)(2)(B)(i)(I) of the Social Security Act (42 U.S.C. 657(a)(2)(B)(i)(I)) is amended by striking “Act Reconciliation” and inserting “Reconciliation Act”.

(k) Section 457 of the Social Security Act (42 U.S.C. 657) is amended by striking “Opportunity Act” each place it appears and inserting “Opportunity Reconciliation Act”.

(l) Effective on the date of the enactment of this Act, section 404(e) of the Social Security Act (42 U.S.C. 604(e)) is amended by inserting “or tribe” after “State” the first and second places it appears, and by inserting “or tribal” after “State” the third place it appears.

(m) Section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7)) is amended by striking “1681a(f)” and inserting “1681a(f))”.

(n) Section 466(b)(6)(A) of the Social Security Act (42 U.S.C. 666(b)(6)(A)) is amended by striking “state” and inserting “State”.

(o) Section 471(a)(8) of the Social Security Act (42 U.S.C. 671(a)(8)) is amended by striking “(including activities under part F)”.

(p) Section 1137(a)(3) of the Social Security Act (42 U.S.C. 1320b-7(a)(3)) is amended by striking “453A(a)(2)(B)(iii)” and inserting “453A(a)(2)(B)(ii))”.

(q) Except as provided in subsection (l), the amendments made by this section shall take effect as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

## I. INTRODUCTION

### A. PURPOSE AND SCOPE

The Foster Care Independence Act of 1999 provides States with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency. The SSI Fraud Prevention provisions in Title II are designed to combat fraud in, and to improve the administration of the programs under Titles II (especially the disability program) and XVI of the Social Security Act, and to continue SSI benefits to Filipino veterans of the U.S. armed forces during World War II who move back to the Philippines. Title III contains a change in Federal funding of the Child Support Enforcement program eliminating the hold harmless provision that guarantees States a share of child support collections that are retained by the State at least equal to the share retained in 1995. Title IV of the bill contains several technical amendments to the 1996 welfare reform law (P.L. 104-193).

## B. BACKGROUND AND NEED FOR LEGISLATION

The Federal Government now provides States with about \$70 million per year to conduct programs for adolescents leaving foster care that are designed to help them establish independent living. Research and numerous reports from States conducting these programs indicate that adolescents leaving foster care do not fare well. As compared with other adolescents and young adults their age, they are more likely to quit school, to be unemployed, to be on welfare, to have mental health problems, to be parents outside marriage, to be arrested, to be homeless, and to be the victims of violence and other crimes.

After conducting hearings, talking with program administrators and adolescents who are in foster care and who have left foster care, and reviewing research and program information, the Committee prepared reform legislation. The central feature of the legislation would provide States with both a new framework and new resources to improve and expand their programs for adolescents likely to stay in foster care until age 18 and for young adults who have left foster care and are attempting to further their education or to work. States must make their own decisions about the optimum allocation of their funds between adolescents still in foster care and those who have left foster care, but the Committee expects that States will provide a fair share of their resources for young people who have aged out of foster care. The legislation would encourage States to provide Medicaid health insurance to 18, 19, and 20 year olds who have left foster care.

After two years of testimony, meetings with officials from the Social Security Administration and the General Accounting Office (GAO), and extensive consultations with groups interested in children's issues, the Committee has developed, on a bipartisan basis and in full cooperation with the Administration, legislation that would reduce fraud and administrative problems in both the Supplemental Security Income (SSI) program and the disability program conducted as part of the Social Security program. The SSI program has been on the General Accounting Office's list of programs that are at high risk for fraud and abuse. That this legislation addresses the concerns raised by GAO is indicated by the Congressional Budget Office estimate that the Committee bill will save taxpayers nearly a quarter of a billion dollars over 5 years.

## C. LEGISLATIVE HISTORY

### *Committee bill*

H.R. 1802 was introduced on May 13, 1999 by Chairman Nancy Johnson and ranking member, Ben Cardin of the Subcommittee on Human Resources. The Subcommittee on Human Resources considered H.R. 1802 and ordered it favorably reported to the full Committee, as amended, on May 20, 1999 by a voice vote, with a quorum present. The full Committee on Ways and Means considered the Subcommittee reported bill on May 26, 1999 and ordered it favorably reported, as amended, on Wednesday, May 26, 1999, by voice vote.

*Legislative hearings*

The Subcommittee on Human Resources held a hearing on May 13, 1999, to receive comments on H.R. 1802, the bipartisan legislation written by Chairman Johnson and Mr. Cardin. Testimony at the hearing was presented by scholars, program administrators, foundation executives, a Member of Congress, and individuals participating in programs designed to help adolescents in foster care achieve self-sufficiency through employment or post-secondary education. The Subcommittee also conducted a hearing on March 9, 1999, which included testimony from the Administration, child advocacy groups, program administrators, and former foster children.

The Committee bill also includes extensive provisions addressed to reducing fraud and abuse in the Supplemental Security Income (SSI) program. The Subcommittee on Human Resources held hearings on SSI fraud and abuse on April 21, 1998 and on February 3, 1999, which included testimony from Members of Congress, the Administration, a former Social Security claims representative, organizations representing citizens with disabilities, and an organization representing Filipino veterans. On February 10, 1999, the Subcommittee ordered favorably reported to the full Committee on Ways and Means, as amended, H.R. 631, the “SSI Fraud Prevention Act of 1999,” which is now included as Title II of H.R. 1802, the “Foster Care Independence Act of 1999.”

## II. EXPLANATION OF PROVISIONS

### 1. SHORT TITLE

*Present law*

No provision.

*Explanation of provision*

This Act may be cited as the “Foster Care Independence Act of 1999”.

*Reason for change*

Not applicable.

### Title I. Improved Independent Living Program

#### *Subtitle A: Improved Independent Living Program*

### 1. FINDINGS

*Present law*

No provision.

*Explanation of provision*

The Committee bases its legislative proposal on four major findings. First, despite the fact that States must make reasonable efforts to reunify abused and neglected children with their families and, if this is not possible, must make reasonable efforts to place these children with adoptive families, some children may be neither reunified nor adopted. Such children should be enrolled in Independent Living programs designed by State and local govern-

ments to prepare them for employment, postsecondary education, and successful management of adult responsibilities. Second, about 20,000 adolescents leave foster care each year because they reach age 18. Third, adolescents leaving foster care have significant difficulty making the transition to independent living; they show high rates of homelessness, nonmarital childbearing, poverty, and delinquent or criminal behavior; they are also frequent targets of crime and physical assaults. Fourth, State and local governments, with financial support from the Federal government, should offer a program of education, training, employment, and financial support to young adults leaving foster care, with participation beginning long before high school graduation and continuing, as needed, until the young adult reaches age 21.

*Reason for Change*

The Committee includes these findings so that interested parties will be informed about the facts and issues that prompted the Committee to create an expanded and reformed Independent Living program.

## 2. PURPOSE

*Present law*

Payments are made under this section for the purpose of assisting States and localities in establishing and carrying out programs to help foster children make the transition from foster care to independent living. Eligible children must be at least 16 years old, and include: (1) children receiving foster care maintenance payments under Title IV-E (including those no longer eligible for Title IV-E because they have accumulated assets of up to \$5,000); (2) at State option, other foster children under State responsibility; and (3) at State option, former foster children who are not yet 21 years old.

*Explanation of provision*

The purpose of the Independent Living Program is to provide States with funding to: (1) identify children likely to remain in foster care until age 18 and prepare them for transition to self-sufficiency by providing job preparation and preparation for postsecondary education; (2) help these adolescents receive the education, training, and services necessary to obtain employment; (3) help these adolescents prepare for postsecondary training and education; (4) provide personal and emotional support to these adolescents by use of mentors; and (5) provide financial, housing, and other assistance to former foster care recipients between ages 18 and 21 to complement their own efforts to achieve self-sufficiency.

*Reason for change*

The purposes of this legislation are specified in detail because they control how funds can be spent by States. Early identification of children who might remain in foster care until age 18, the first purpose of the bill, is essential if States are to develop programs that help these adolescents prepare for independence by age 18. The second and third purposes of preparing the adolescents for ei-

ther (or both) work or post-secondary education are widely agreed by professionals, advocates, and researchers to be the major goals of all Independent Living programs. Unless adolescents in foster care are prepared either to work or enter post-secondary education, there is little hope that they will achieve independence and self-sufficiency. The fourth purpose of providing personal and emotional support through the use of mentors was revealed in testimony before the Committee to be one of the most important, yet least achieved, goals of Independent Living programs. Without the personal support and advice, especially in times of trouble, that only a trusted adult can supply, adolescents will have a more difficult time mastering the transitions required to achieve independence. The final purpose of providing services to adolescents that are 18, 19, and 20 years old is included because the Committee believes nearly all young people who emancipate from foster care will continue to need help and guidance as they attempt to make the transition to self support.

### 3. APPLICATIONS

#### *Present law*

To receive funds under this section for any fiscal year, the State must submit to the Secretary of the Department of Health and Human Services (HHS), by February 1 of the preceding year, a description of the program, together with satisfactory assurances that the program will be operated in an effective and efficient manner and meet the requirements of this section.

#### *Explanation of provision*

States may apply for their allotment of funds for 5 years by submitting a written plan. The plan must specify which State agency will administer the Program. It must also include a description of how the State will: design and deliver programs to achieve the purposes of this section; ensure that all political subdivisions in the State are served; ensure that programs serve children of various ages and at various stages of achieving independence; involve the public and private sectors in helping adolescents in foster care achieve independence; use objective criteria to determine eligibility for benefits and services and ensure fair and equitable treatment; and cooperate in national evaluations of program effects. The plan must also contain certifications by the chief executive officer of the State that: services will be provided to young people who have left foster care but not attained age 21; not more than 30 percent of State funds will be spent on room and board for children who have left foster care and are between 18 and 21 years of age; no Federal money will be spent for room and board for children who are not yet 18; the State will provide training to foster parents to help children prepare for independent living; the State has consulted widely with public and private organizations to develop its plan and members of the public had at least 30 days to submit comments on the plan; the State will coordinate its Independent Living Program with other Federal and State programs for youth; Indian tribes in the State have been informed about the program, given an opportunity to comment on the plan, and will receive benefits and serv-

ices under the program on the same basis as other children in the State; the State will ensure that adolescents accept personal responsibility for preparing for independence; the State has established procedures to prevent fraud and abuse in the program. The Secretary must approve a State plan if it has been submitted before June 30 of the calendar year in which the program begins and contains the explanations and certifications outlined above. States may at any time change their plan, but all changes must be consistent with Federal requirements for the Independent Living program and must be submitted to the Secretary within 30 days of implementation. Each State must make its plan and a brief summary of the plan available to the public.

#### *Reason for change*

The application procedure for Independent Living funds is changed for several reasons. First, to reduce administrative burden on both the States and the Federal government, we require updated proposals to be submitted by States only every 5 years. States may, however, amend their program at any time as long as they inform the Secretary within 30 days. Second, the Committee emphasizes the importance of States keeping the Secretary informed about the specific features of their program. This information is essential so that interested parties will know the types of programs receiving public support and for the purpose of program evaluation. Third, States must inform the public about their proposal and give the public time to react because interested parties have a right to be heard on the design of public programs. Fourth, States must agree to participate in the national evaluation to be conducted by the Secretary should their State program, or any sub-state program, be selected for inclusion in the evaluation. Fifth, States must include several certifications in their application. The certification is a method of expressing Federal intent to the States without being excessively prescriptive in telling States the specific types of programs they should conduct. In each of these certifications, the Committee expects States to pay due consideration to our concerns and to respond accordingly while developing and implementing their program. The certifications concern program features and goals about which there is substantial agreement among Members of Congress, program administrators at both the national and State level, and children's advocates. Finally, to ensure State flexibility in designing and implementing their Independent Living program, the Committee requires the Secretary to approve plans if they are complete and submitted in timely fashion.

#### 4. ALLOTMENTS TO STATES

##### *Present law*

Federal funds (\$70 million annually) are allocated among States on the basis of the average number of children in each State who received foster care maintenance payments under Title IV-E in fiscal year 1984, as compared with the total number of such children in all States. If a State does not submit the required program description and assurances by February 1 of the preceding fiscal year,

the Secretary reallocates that State's share of funds for a particular fiscal year to one or more other States on the basis of relative need.

*Explanation of provision*

Each year, of the \$140 million appropriated for this program, \$2.1 million is set aside for program evaluation and technical assistance. The remaining \$137.9 million is divided among the States in proportion to the number of children in each State who reside in foster care divided by the total number of children in the nation who reside in foster care. However, no State can receive less money than it received under the previous Independent Living program. Any funds allotted to a State in a given fiscal year that are not payable to the State are allotted to the other States in the next fiscal year using the same distribution formula as the formula for the basic State allotment.

*Reason for change*

The biggest change in this provision is that the amount of money available to States to conduct their Independent Living programs is approximately doubled. Based on research, testimony, and the direct experience of many observers, States simply do not now have enough funds to mount effective Independent Living programs. Moreover, States need additional funds because under the terms of this legislation, they must continue to help young people after they leave foster care and until they reach age 21. Money is set aside for evaluation because there is universal agreement that there is no scientific information available on whether programs have an impact on any of several outcomes such as high school graduation, enrollment in post-secondary education, employment, marriage, nonmarital births, or delinquent or criminal behavior.

The legislation updates the formula used to distribute funds by basing the calculation each year on the fraction of all children residing in foster care in the nation who reside in each State. The Secretary of HHS will use data from the most recent available year in making this calculation. Distributing Independent Living funds in proportion to a State's share of the nation's foster care caseload is based on the assumption that this number is highly correlated with the number of children aging out of foster care. The number of children in foster care in each State is also an appropriate datum to use because it is one of the few reliable child protection statistics available from every State.

## 5. USE OF FUNDS

*Present law*

Funds may be used to enable States to: help adolescents obtain a high school diploma or equivalent or receive vocational training; provide training in daily living skills, budgeting, locating and maintaining housing, and career planning; provide for individual and group counseling; integrate and coordinate otherwise available services; establish outreach programs to attract eligible participants; provide each participant with a written transitional independent living plan, based on an individual needs assessment and incorporated into the participant's foster care case plan; and pro-

vide participants with other services and assistance to improve their transition to independent living. Payments to States are in addition to amounts otherwise payable under Title IV–E, and must supplement and not replace any other funds available for the same general purposes. Funds may not be used to provide room or board.

*Explanation of provision*

Funds may be used in any manner that is reasonably calculated to accomplish the purpose of the Independent Living program (see “Purpose” above). Payments to States are in addition to amounts otherwise payable under Title IV–E. Funds must be used to supplement not supplant other funds available for the same general purpose in the State. Funds may not be used to provide room and board for children under age 18. However, States may use up to 30 percent of their funds to provide room and board for adolescents of ages 18, 19, and 20.

*Reason for change*

Unlike previous law, the Committee makes no attempt to enumerate the specific activities that are a legal use of funds under the Independent Living program. Rather, the Committee bill specifies the purposes of the program and leaves decisions about means up to State and local governments. In a nation as large and diverse as the United States, this approach makes more sense than trying to impose a single approach on every jurisdiction in the country. Furthermore, the Committee has observed that when States and localities design their own programs, they seem to be more committed to making sure the program is aggressively implemented and achieves its intended purposes. Unlike previous law, we are allowing States to use a portion of their money to pay for room and board for young people over age 18. We have made this change because consultation with program administrators and social workers revealed that housing support is one of the greatest needs of these young adults. The Committee strongly recommends that States use this new authority to provide partial subsidies for limited time periods to help these young people get established.

## 6. PENALTIES

*Present law*

No specific provision.

*Explanation of provision*

States are subject to penalty if they misuse funds or if they fail to submit the annual data report (see below). The penalty is loss of between 1 percent and 5 percent of a State’s annual allotment based on the degree of noncompliance as judged by the Secretary.

*Reason for change*

Although States are given great flexibility under the Committee bill, there are two matters about which the Committee does not intend to grant flexibility. Specifically, States must keep the Federal government informed about their use of Federal dollars and they must submit annual data reports. The framework of our grant ap-

proach is that the Federal government will specify goals, provide funds, and encourage great flexibility of means, but in return the Committee expects States to use the money for its intended purpose, to keep us informed of the specific characteristics of their programs, and to supply information about outcomes. Not only is this approach a reasonable compromise between excessive Federal authority and a total lack of accountability, but descriptive information about program characteristics and outcomes is essential if the nation is to create intervention programs that provide effective assistance to these vulnerable young people. Moreover, the level of penalties ranges from modest to moderate so States that commit minor errors will incur penalties as low as 1 percent while States that commit repeated or serious infractions can be penalized as much as 5 percent. The Committee is confident the Secretary will use good judgment in selecting an appropriate level of penalty for each case.

## 7. DATA COLLECTION AND PERFORMANCE

### *Present law*

By January 1 following the end of each fiscal year, each State must submit a report to the Secretary on programs funded during the fiscal year. The report must contain information necessary to provide an accurate description of the program, a complete record of the purposes for which funds were spent, and the extent to which the expenditure of funds succeeded in accomplishing the program's purpose.

### *Explanation of provision*

The Secretary, in consultation with State and local officials, child welfare advocates, members of Congress, researchers, and others will develop outcome measures (including measures of education, employment, avoidance of dependency, homelessness, nonmarital childbirth, and high-risk behaviors) that can be used to assess State performance as well as data elements needed to track the number and characteristics of children receiving services under the Program, the type and quantity of services being provided, and State performance on outcome measures. The Secretary must also develop and implement a plan to collect the information. Within 12 months after enactment of this section, the Secretary must submit to the Committees on Ways and Means and Finance a report detailing the plans and a timetable for collecting State data.

### *Reason for change*

The Committee originally intended to specify a detailed set of program and performance measures that States would be required to report annually. After consultation with experts and State welfare officials as represented by the American Public Human Services Administration, however, we decided to allow the Secretary to develop the final set of measures in consultation with Congress, researchers, State officials, and others. In this way, a wider audience can be consulted and the statute will permit adequate flexibility in developing the original set of measures as well as in adopting changes that may be needed in the future. Among other require-

ments, the most important is that States report outcome measures such as high school graduation, post-secondary education, employment, delinquency and crime, nonmarital births, and others. The Committee expects that the new data system will be put in place as quickly as possible so Congress can begin learning about State programs.

## 8. EVALUATIONS

### *Present law*

By July 1, 1988, the Secretary was required to submit to Congress an interim report on activities conducted under this section; and by March 1, 1989, the Secretary was required to submit an evaluation of the use of independent living funds by States, containing a detailed description of the number and characteristics of participants, the activities conducted, the results achieved, and plans and recommendations for the future.

### *Explanation of provision*

The Secretary must conduct evaluations of selected State programs that she judges to be innovative or of potential national significance. Evaluations must include information on program effects and must be based on rigorous scientific methods. A total of \$2.1 million is available to the Secretary each year for evaluation and technical assistance. Outside evaluators may be used.

### *Reason for change*

The Committee is granting extensive authority to the Secretary to design and conduct high quality evaluations. The Committee wants to know, first, whether States and localities can mount successful programs that increase post-secondary education and employment, that reduce levels of delinquency and crime, that reduce poverty, that reduce nonmarital births, and that produce other desirable outcomes identified by the Secretary, researchers, State officials, and others. Second, if good outcomes can be achieved, the Committee wants to know the program characteristics associated with these outcomes. To achieve these ends, the Secretary, either directly or by hiring outside evaluators, should identify potentially successful programs that hold promise for producing good outcomes and carefully evaluate these programs over a period of several years. Although the Secretary enjoys complete flexibility as to which programs to evaluate and for how many years, the Committee expects her to follow program graduates for several years and to obtain longitudinal data on their life situation. These data include, in addition to the measures mentioned above, marriage and divorce, cohabitation, stability of employment, number of children, income, use of welfare, and other measures selected by the Secretary in consultation with others. The Committee strongly urges the Secretary to decide who will conduct the evaluation, to select projects, to design the evaluation, and to begin collecting data within 18 months of passage.

## 9. PAYMENTS TO STATES

*Present law*

States are entitled to their share of \$70 million annually, of which the first \$45 million is defined as the “basic ceiling” (100% Federal funding) and the remaining \$25 million is defined as the “additional ceiling” (50% Federal funding). Payments are made on an estimated basis in advance, are adjusted subsequently to account for errors in estimates, and must be spent by the State in the fiscal year for which they are paid or in the succeeding fiscal year.

*Explanation of provision*

States are entitled to payments based on the \$137.9 million provided annually. States must provide a 20 percent match using State money. Payments are made quarterly. Federal payments are reduced in proportion to the amount by which States fail to provide their entire 20 percent match. Penalties assessed against a State are subtracted from their payments.

*Reason for change*

As explained previously, the Committee bill repeals the outdated and complicated method of distributing funds called for under current law by a straightforward method based on each State’s share of the nation’s foster care caseload using the most recent year for which reliable data are available. Given the doubling of the Federal government’s financial commitment to this program, it seems reasonable to require States to provide a modest level of matching payments. If States do not put up the entire 20 percent match in a given year, the Secretary must proportionately adjust their Federal payment downward and then distribute the unused funds among the other States. In this way, only States that show a commitment to the program by using their own money will receive the maximum amount of Federal support.

## 10. REGULATIONS

*Present law*

The Secretary was required to promulgate final regulations to implement this section within 60 days of its enactment on April 7, 1986.

*Explanation of provision*

The Secretary must publish regulations within 12 months of enactment.

*Reason for change*

The Committee makes no assumptions about what specific regulations will be necessary. As in nearly all of the programs under our jurisdiction, we are confident the Secretary will develop any regulations that are necessary and will provide Congress and others with the opportunity to comment on an initial draft of such regulations.

## 11. SENSE OF THE CONGRESS

*Present law*

No provision.

*Explanation of provision*

States should provide Medicaid coverage to 18, 19, and 20 year olds who have been emancipated from foster care.

*Reason for change*

Because this group of young adults has higher than average needs for medical care, and especially for mental health services, the Committee wants States to cover as many 18, 19, and 20 year olds with Medicaid health insurance as possible. To provide States with more flexibility in fashioning these coverages, we have requested that the Commerce Committee amend the Medicaid statute so that States could cover various subgroups of these 18, 19, and 20 year olds (see Subtitle B below).

*Subtitle B: Related Foster Care Provision*SEC. 111. INCREASE IN AMOUNT OF ASSETS ALLOWABLE FOR CHILDREN  
IN FOSTER CARE*Present law*

Foster care maintenance payments under Title IV–E may be made on behalf of otherwise eligible children who are removed from families that would have been eligible for Aid to Families with Dependent Children (AFDC) as it operated in their State on July 16, 1996. Under AFDC, families could not accumulate assets in excess of \$1,000.

*Explanation of provision*

The Committee provision allows children to receive Federal foster care payments if they have resources of not more than \$10,000.

*Reason for change*

Children in foster care have a special need for resources. Unlike children reared in families, these children often have little or no support from relatives. Thus, when they turn age 18 and are no longer eligible for government foster care payments, they are on their own. Under current law, these adolescents cannot accumulate more than \$1,000 in assets and still remain eligible for Federal foster care payments. The Committee believes children in foster care should be allowed to accumulate a much higher level of assets to prepare for the day when they must support themselves. Thus, we are increasing the asset limit to \$10,000.

*Subtitle C: Medicaid Amendments (within the jurisdiction of the Committee on Commerce)*

SEC. 121. STATE OPTION OF MEDICAID COVERAGE FOR ADOLESCENTS LEAVING FOSTER CARE

*Present law*

States have a variety of optional coverages under the Medicaid program, one of which is that they can cover young adults who are 18, 19 or 20 years old. However, States are limited in their ability to cover certain subgroups, such as former foster children, within each age group. Thus, in many States once adolescents leave foster care, they may no longer be eligible for Medicaid.

*Explanation of provision*

States will have the option of giving Medicaid coverage to former foster care children who are ages 18, 19, or 20. In addition, States could use means-testing to provide coverage only to youth who had income and resources established by each State as permitted under Section 1931(b) of current Medicaid law. Eligibility for Medicaid could also be limited to 18, 19, or 20 year olds who received support before their 18th birthday from the Federal program for Foster Care and Adoption Assistance.

*Reason for change*

Most young people are healthy and therefore may not use health care services. However, research shows that adolescents leaving foster care have significantly more health needs than other adolescents. Both testimony received by the Committee and research show that these adolescents are especially in need of mental health services. Thus, the Committee believes that young people leaving foster care should be covered by health insurance. However, the \$350 million (over 5 years) pricetag of mandatory coverage cannot be supported by the financing mechanisms available to the Committee. As a result, the Committee bill makes Medicaid coverage optional for former foster care children.

However, to increase the probability that States will offer such coverage, we have requested that the Commerce Committee amend the Medicaid statute to permit States to cover only 18, 19, or 20 year olds who had been emancipated from foster care. Even within this group, States would be permitted to use means testing to offer care only to the poorest adolescents or to offer Medicaid only to children who received support from the Federal foster care program under Title IV-E of the Social Security Act (about half of all children emancipating from foster care).

Rough estimates indicate that there are about 65,000 young adults who are 18, 19, or 20 years old and have emancipated from foster care. About 40,000 of them now are eligible for coverage under various Medicaid options available to States; CBO estimates that of these 40,000 young people, about 22,000 actually are receiving Medicaid coverage. Under the Committee provision of creating a State option to provide coverage while simultaneously allowing States to cover only those aging out of foster care and even to cover certain subgroups within these age categories, the number of eligi-

ble young people is estimated to rise to 54,000 and of these, about 41,000 will actually receive coverage. In other words, the Committee bill increases actual coverage by around 19,000 young adults, from 22,000 to 41,000.

## Title II. SSI Fraud Prevention

### *Subtitle A: Fraud Prevention and Related Provisions*

#### SEC. 201. LIABILITY OF REPRESENTATIVE PAYEES FOR OVERPAYMENTS TO DECEASED RECIPIENTS

##### *Present law*

SSI regulations state that representative payees must report the death of the SSI recipient they represent as well as the death of anyone living in the household of the person they represent. The law and regulations are silent with respect to what happens to the representative payee if she fails to report this information.

##### *Explanation of provision*

Representative payees in either the SSI or Social Security programs who do not return payments made after the death of a beneficiary must be held liable for repayment.

##### *Reason for change*

Individuals who willingly accept money that is not legally theirs by cashing checks intended for deceased recipients have both a legal and an ethical responsibility to repay the money.

#### SEC. 202. RECOVERY OF OVERPAYMENTS OF SSI BENEFITS FROM LUMP SUM SSI BENEFIT PAYMENTS

##### *Present law*

SSI law limits the recovery by the Social Security Administration of overpayments made to SSI recipients. The amount of recovery in any month is limited to the lesser of: (1) the amount of the benefit for that month, or (2) an amount equal to 10 percent of the countable income (including the SSI payment) of the individual or couple for that month. This limitation does not apply if there is fraud, willful misrepresentation, or concealment of information in connection with the overpayment. The recipient may request a higher or lower rate at which benefits may be withheld to recover the overpayment.

The Commissioner of Social Security may waive recovery of an overpayment if the overpaid individual was without fault in connection with the overpayment and adjustment or recovery of the overpayment would either defeat the purpose of the SSI program, be against equity and good conscience, or impede efficient or effective administration of the SSI program due to the small amount involved.

##### *Explanation of provision*

The Social Security Administration must offset lump sums by at least 50 percent to recover prior SSI overpayments, subject to existing waiver authority.

*Reason for change*

Individuals who accept overpayments should be held accountable for repaying all the money that is in excess of the correct amount of their benefits. Offsetting lump-sum payments by at least 50 percent is an efficient way to collect this money owed to Social Security taxpayers. Moreover, lump sum payments often provide recipients with substantial sums of money at one time, thereby easing the burden of making a sizable payment on the money they owe the Social Security Administration.

## SEC. 203. ADDITIONAL DEBT COLLECTION PRACTICES

*Present law*

The primary methods by which repayment of overpayments are obtained from persons no longer receiving SSI are voluntary repayment agreements, offsets against Social Security (Title II) benefits, and offsets against a person's Federal income taxes.

*Explanation of provision*

SSA may use credit bureau reports, debt collection (including by private debt collection agencies), state and Federal intercepts, and other means deemed effective by the SSA Commissioner to facilitate collection of overpayments.

*Reason for change*

Although offsetting debts against Social Security is a worthwhile collection method, many people who owe money to the Supplemental Security Income program do not receive Social Security benefits. Therefore, the legislation provides for the additional collection methods now available under the Social Security programs. The methods included here have proven effective in other programs, especially the child support enforcement program.

## SEC. 204. REQUIREMENT TO PROVIDE STATE PRISONER INFORMATION TO FEDERAL AND FEDERALLY ASSISTED BENEFIT PROGRAMS

*Present law*

The 1996 welfare reform law (P.L. 104-193) stipulates that the Commissioner of Social Security must enter into a contract with any interested State or local institution (prison, jail, mental hospital, etc.), under which the institution must provide to the Commissioner on a monthly basis the names, Social Security numbers, dates of birth, and other information concerning the residents of the institution. This information is used to help the Commissioner enforce the "prohibition of payments to residents of public institutions" rule. If fraudulent SSI payments are discovered by matching the prisoner information with the SSI rolls, the Commissioner must pay the reporting institution up to \$400 for each inmate if the information is provided to the Commissioner within 30 days after such individual becomes a resident or up to \$200 for each resident if the information is provided after 30 days but within 90 days of the person becoming a resident.

The 1996 law also authorizes the Commissioner of Social Security to provide, on a reimbursable basis, information obtained pur-

suant to the agreements to any Federal or Federally-assisted cash, food, or medical assistance program for eligibility purposes.

*Explanation of provision*

SSA must share its prisoner database with other Federal departments and agencies to prevent the continued payment of other fraudulent benefits (e.g. food stamps, veterans' benefits, unemployment, and education aid) to prisoners.

*Reason for change*

The prisoner provisions of the 1996 welfare reform law have generated savings greatly in excess of those estimated by the Congressional Budget Office, in part because a surprising number of prisoners had managed to obtain SSI benefits. There is not good information on how many prisoners receive other Federal benefits, but it is likely that many do. The SSA database on prisoners, which will eventually include fugitive felons as well, could be used to find out how many prisoners are receiving benefits for which they are not qualified, to terminate these benefits, and perhaps to save substantial sums of money.

SEC. 205. RULES RELATING TO COLLECTION OF OVERPAYMENTS FROM INDIVIDUALS CONVICTED OF CRIMES

*Present law*

The Commissioner of Social Security may waive recovery of an overpayment if the overpaid individual was without fault in connection with the overpayment and adjustment or recovery of the overpayment would either defeat the purpose of the SSI program, be against equity and good conscience, or impede efficient or effective administration of the SSI program due to the small amount involved.

*Explanation of provision*

Individuals must repay overpayments arising from their status as fugitives and prisoners (thus, SSA may not grant them a hardship waiver of collections). Failure by fugitives or past prisoners to disclose to SSA at the time of reapplication their prior receipt of benefits while a prisoner or a fugitive, or to agree to and abide by a repayment schedule that provides for at least a 10 percent monthly offset of their current benefits, will result in a 10 year loss of eligibility. SSA must continue overpayment collection efforts while prisoners are in jail.

*Reason for change*

Prisoners who receive Social Security payments or SSI payments are deliberately breaking the law. There is no justification for providing a waiver to allow them to avoid repaying the taxpayers who support the Social Security trust fund or the general revenues that pay SSI benefits. Moreover, if such prisoners apply for Social Security or SSI in the future, there should be a well-defined arrangement stipulating how the debt will be repaid. If the former prisoner knowingly fails to notify SSA that they owe money to the system

or fails to agree to a repayment schedule, a sharp penalty should result.

#### SEC. 206. TREATMENT OF ASSETS HELD IN TRUST UNDER THE SSI PROGRAM

##### *Present law*

SSI regulations define resources as cash or other liquid assets, or any real or personal property (with some exceptions such as the value of a residence) that an individual (or spouse) owns and could convert to cash to be used for support and maintenance (i.e., for food, clothing, or shelter). Assets placed in a trust in which individuals have no ownership and to which they have no access no longer meet the definition of a resource for SSI purposes. Thus, such a trust is not counted as a resource in determining SSI eligibility.

In addition, the 1996 welfare reform law (P.L. 104–193) requires that parents establish an account for children who receive large past-due SSI payments. The account is to be disregarded in determining SSI eligibility (i.e., not counted as a resource or income) and to be used only for such purposes as education, job skills training, personal needs assistance, special equipment, housing modification, medical treatment, therapy or rehabilitation, or any other item or service deemed appropriate by the Commissioner of Social Security.

##### *Explanation of provision*

Trusts would be considered a resource in determining SSI eligibility (subject to recipient protections similar to those currently required under Medicaid law).

##### *Reason for change*

A principle underlying virtually all Federal welfare programs is that recipients meet a test of low income and low assets. This income and asset determination is essential because the very justification for welfare programs is that they provide assistance to people who lack income and resources. Thus, to allow individuals to protect resources in a trust that could be used to meet their needs violates the principle of welfare. There is also an issue of horizontal equity here because Medicaid, one of the biggest and most important welfare programs, requires that assets held in trust be counted as a resource. The Committee provision is especially fair because exemptions, like those in Medicaid law, are included.

#### SEC. 207. DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE UNDER THE SSI PROGRAM

##### *Present law*

SSI law requires the Commissioner of Social Security to inform SSI applicants and recipients that Medicaid law provides for a period of ineligibility of Medicaid benefits for individuals who dispose of resources for less than fair market value. (P.L. 100–360, enacted in 1988, repealed the SSI provision that required that the uncompensated value of resources transferred for less than fair market

value be counted for 24 months after disposal in determining whether the individual meets the SSI resource requirements.)

Medicaid law stipulates that States are required to determine whether an institutionalized individual transferred resources for less than fair market value within the previous 36 months. If such a transfer has occurred, the individual may be ineligible for certain Medicaid services (i.e., Medicaid-covered home, nursing home, or community-based services) for up to 36 months. The period of ineligibility for covered services is equal to the uncompensated value of the transferred resource divided by the average monthly cost of nursing services as determined by the State.

*Explanation of provision*

SSI applicants that have disposed of resources for less than fair market value within 36 months before application will have their benefit reduced for the period of time equal to the uncompensated value of the transferred resource divided by the maximum monthly SSI benefit and any State supplementary payments. The maximum length of benefit loss is 36 months.

*Reason for change*

The logic of this provision is similar to that for trusts; namely, that a basic principle of all Federal welfare programs is that benefits are reserved for those who have limited income and resources. If individuals deliberately dispose of valuable assets at less than their fair market value “often by “selling” them to friends or relatives—in order to meet the assets test for a Federal welfare program, that individual should not be allowed to participate in the welfare program until taxpayers have been compensated for an amount equal to the difference between the amount for which the individual disposed of the asset and the fair market value of the asset. Again, similar to the case of trusts, equity issues are also involved here because Medicaid law already contains a provision protecting taxpayers against applicants who dispose of assets for less than fair market value.

SEC. 208. ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS

*Present law*

Social Security and SSI law stipulate that anyone who knowingly and willfully makes or causes to be made any false statements or misrepresentations in applying for or continuing to receive Social Security or SSI payments shall be fined under Title 18 of the U.S. Code, imprisoned for not more than 5 years, or both.

Federal law also provides that any person who makes, or causes to be made, a statement or representation of a material fact for use in any initial or continuing review of an individual’s eligibility for Social Security (Title II) or SSI benefits that the person knows or should know is false or misleading or omits a material fact or makes such a statement with knowing disregard for the truth is subject to a civil penalty of not more than \$5,000 for each such statement or representation plus up to twice the value of the amount paid fraudulently.

*Explanation of provision*

This provision creates a new SSA administrative procedure designed to penalize individuals who have provided false or misleading information to SSA in order to qualify for benefits, especially in cases now considered to involve overpayments too small to take to court. The new procedure would apply to false or misleading statements in either the SSI program (Title XVI) or the various Social Security benefits paid under Title II. If individuals have attempted to gain or increase benefits through false or misleading statements, they could be barred from eligibility, with increasing penalties (6 months of ineligibility for first offense, 12 months for second, 24 months for third). Recipients who lose their benefits due to this new procedure retain any Medicaid or Medicare benefits to which they are entitled, and individuals may appeal adverse decisions.

*Reason for change*

There are a moderate number of cases in which applicants or recipients for Social Security benefits or SSI appear to have made false or misleading statements. In many of these cases, the amount of benefit overpayment is too small to justify a court proceeding. This new administrative procedure will make it possible for SSA officials to efficiently impose penalties in these cases by withholding benefits. The right of individuals to appeal these decisions is assured in the statute.

SEC. 209. EXCLUSION OF REPRESENTATIVES AND HEALTH CARE PROVIDERS CONVICTED OF VIOLATIONS FROM PARTICIPATION IN SOCIAL SECURITY PROGRAMS

*Present law*

No provision. However, Federal law bars individuals and entities that are convicted of fraud under Federal or State law in connection with Medicare or State health care programs from future participation in those programs.

Federal law also provides that any person who makes, or causes to be made, a statement or representation of a material fact for use in any initial or continuing review of an individual's eligibility for Social Security (Title II) or SSI (Title XVI) benefits that the person knows or should know is false or misleading or incomplete with knowing disregard for the truth is subject to a civil penalty of not more than \$5,000 for each such statement or representation plus up to twice the value of the amount paid fraudulently.

*Explanation of provision*

Representatives and health care providers convicted of fraud involving SSI eligibility determinations are barred from further program participation for at least 5 years (10 years for a second conviction; permanently for a third).

*Reason for change*

Professionals and others who play a role in helping individuals apply for Social Security and SSI have a special responsibility to maintain high standards of truthfulness. The evidence, opinion, ad-

vice, and recommendations they provide are often crucial in the eligibility determination process. Thus, any such representative or health care provider who gives false or misleading information or otherwise commits fraud as part of eligibility determination must be subject to serious penalties. This is especially the case since experience shows that some of these individuals commit fraud in many cases, thereby resulting in substantial sums of money being paid fraudulently to numerous recipients. Excluding these individuals from participating in the eligibility determination process for many years is therefore entirely justified. The amendment contains provision for review and appeal of these decisions.

#### SEC 210. STATE DATA EXCHANGES

##### *Present law*

No provision.

##### *Explanation of provision*

To facilitate data sharing with States, SSA standards on data privacy are deemed to meet all State standards for sharing data.

##### *Reason for change*

The exchange of information stored in government data bases is one of the most fundamental and important approaches to fraud detection and reduction. To ensure that the Federal government has access to information in State data bases for the purpose of fraud detection, Federal rules on data safeguards, which are quite stringent, are assumed to meet the protections provided by State rules. In addition to facilitating the exchange of information between States and the Federal government, this provision gives legal protection to the State organizations and individuals who respond to Federal requests for data.

#### SEC 211. STUDY ON POSSIBLE MEASURES TO IMPROVE FRAUD PREVENTION AND ADMINISTRATIVE PROCESSING

##### *Present law*

No provision.

##### *Explanation of provision*

The SSA Commissioner, in consultation with the SSA Inspector General and the Attorney General, must study and report to the Committees on Ways and Means and Finance within a year on legislative and administrative reforms to prevent SSI/DI fraud, and on administrative reforms that would improve the timely processing of income changes reported by recipients.

##### *Reason for change*

In meetings between SSA staff, the SSA Inspector General's staff, and staff of the Committee on Ways and Means, as well as in testimony presented to the Committee by the Inspector General, it is clear that SSA and the Inspector General are constantly generating ideas about ways to combat fraud. In fact, most of the provisions of this legislation originated with SSA or the Inspector General. Inevitably, given the rigors of the legislative process, some of

the ideas they have already generated were not incorporated into this legislation. The purpose of this provision is to capture these and new ideas and provide the Committee with another opportunity to determine whether some of them can be enacted by Congress to reduce fraud and abuse in the nation's primary disability program. In addition, the Committee has received testimony expressing the concern that some overpayments may be due to reported income changes not being processed by SSA in a timely fashion. The Committee is interested in SSA's recommendations about how this problem might be addressed.

SEC. 212. ANNUAL REPORT ON AMOUNTS NECESSARY TO COMBAT  
FRAUD

*Present law*

No provision.

*Explanation of provision*

The Commissioner must include in the annual SSA budget an itemization of the funds needed to combat SSI/DI fraud by applicants and beneficiaries.

*Reason for change*

In considering the SSA budget, Congress should always have specific information on how much SSA intends to spend on anti-fraud activities. Further, if SSA thinks additional funds are needed to finance opportunities to further reduce fraud, Congress should have the opportunity to consider providing additional funds for this purpose. This approach of appropriating additional administrative funds so that an SSA activity can produce additional savings has already worked well in the case of continuing disability reviews in the SSI program. There is no reason it cannot work just as well in the case of fraud.

SEC. 213. COMPUTER MATCHES WITH MEDICARE AND MEDICAID  
INSTITUTIONALIZATION DATA

*Present law*

No provision. However, SSI recipients, or their representative payees, are required to report to SSA any change in the recipient's status (e.g., income, resources, living arrangements) that may affect the amount of benefits to which the recipient is entitled. Beginning October 1, 1995, Federal law required each administrator of a nursing home, extended care facility, or intermediate care facility to report to SSA the admission of any SSI recipient within two weeks of the recipient's admission, so that SSA can make timely adjustments in the amount of the recipient's SSI benefit.

*Explanation of provision*

SSA must conduct periodic comparisons between Medicaid and Medicare data and SSI rolls to ensure that nursing home residents are not receiving incorrect benefits.

*Reason for change*

There is already considerable savings in the SSI program from the reduction in cash benefits that occurs when recipients enter an institution. However, SSA either does not know about every SSI recipient who enters an institution or SSA does not find out about the admission until several months after it has occurred. Thus, more effective and rapid means of informing SSA about SSI recipients who enter institutions will produce still greater savings.

## SEC. 214. ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS

*Present law*

No provision.

*Explanation of provision*

As a condition of eligibility, applicants for or recipients of SSI may be required to authorize SSA to obtain financial information from banks, savings and loan companies, and other financial institutions that will assist in determining the individual's eligibility for and amount of benefits.

*Reason for change*

This provision may improve the amount and timeliness of information available to SSA to determine the total amount of resources available to applicants and recipients. More complete information on which to base eligibility determinations will ensure that only people who actually meet SSI requirements are awarded benefits.

*Subtitle B: Benefits for Filipino Veterans of World War II*

## SEC. 251. PROVISION OF REDUCED SSI BENEFIT TO CERTAIN INDIVIDUALS WHO PROVIDED SERVICE TO THE ARMED FORCES OF THE UNITED STATES IN THE PHILIPPINES DURING WORLD WAR II AFTER THEY MOVE BACK TO THE PHILIPPINES

*Present law*

Section 107 of P.L. 79-301, enacted February 18, 1946, provides that service in the armed forces of the Commonwealth of the Philippines, or the Philippine Scouts ". . . shall not be deemed to be or to have been service [in U.S. Armed Forces] for the purposes of any law . . .". Thus, Filipino veterans are not qualified for most veterans' benefits, including pensions. Many do receive SSI payments as elderly or disabled citizens or qualified aliens. Currently, the SSI maximum benefit is equal to \$500 per month (the VA pension benefit is equal to \$731 per month). Individuals can receive SSI benefits overseas only if they are a resident of the Northern Mariana Islands, a child of a person in the military stationed outside the United States, or a student temporarily studying abroad.

*Explanation of provision*

Certain Filipino veterans of the U.S. armed forces in World War II would be eligible for continued SSI benefits, even if they moved back to the Philippines. Such veterans would, however, receive a benefit equal to 75 percent of their regular SSI benefit.

*Reason for change*

According to information made available to the Committee through testimony and personal correspondence, there are many Filipino veterans of World War II now drawing SSI benefits who would like to spend their few remaining years at home in the Philippines. However, under current law they are not allowed to receive SSI unless they continue to reside in the U.S. Because these Filipinos fought for the United States in World War II, and because they are willing to accept a slightly smaller benefit (25 percent reduction) if they return to the Philippines, the Committee is willing to make an exception to the general rule that only residents of the U.S. can receive SSI benefits. This opportunity is strictly limited, however, only to those currently receiving SSI benefits and only to veterans of World War II.

## Title III. Child Support

## SEC. 301. ELIMINATION OF HOLD HARMLESS PROVISION FOR STATE SHARE OF DISTRIBUTION OF COLLECTED CHILD SUPPORT

*Present law*

The share of child support collections retained by each State in a fiscal year must be equal to or greater than the amount it retained in FY 1995. Following the end of each fiscal year, the Office of Child Support Enforcement compares each State's share of child support collections for that year to the State share reported for FY 1995. If the current year State share is greater than the 1995 State share, no further action is taken. If the 1995 State share is greater than the current year State share, a child support enforcement "hold harmless" grant award is issued to the State for the difference.

*Explanation of provision*

The provision in Federal law is repealed that requires the Federal government to ensure that States receive at least as much money each year as the amount they obtained in 1995 from retained child support collections.

*Reason for change*

The Child Support Enforcement program was authorized by Congress in 1975 primarily to collect money from fathers whose children were on welfare and thereby received support from taxpayers. Over the years, the child support program has been broadened to include enforcement of most child support cases, regardless of current or previous welfare status.

Table 1 summarizes information about how the child support program is financed. The first three columns show the three primary sources of revenue that finance the State programs. The first column is administrative reimbursements from the Federal government. Nearly all authorized State expenditures on child support program activities are reimbursed at the rate of 66 percent by the Federal Government (a few are financed at 80 percent or 90 percent). The second column is the State share of retained child support collections; this category includes both payments by noncusto-

dial parents while the custodial parent and children are receiving welfare payments and certain payments on arrearages after the family has left the welfare rolls. In former welfare cases, collections on arrearages are split, in accord with a complicated set of rules, between State government, the Federal government, and the family. The 1996 State share of retained collections is the information presented in the second column. The third column is Federal incentive payments to States. Based on legislation enacted in 1998, the new terms of Federal incentive payments are now being implemented. When fully implemented, States will be provided with higher payments based on their performance in establishing paternity, establishing support orders, collections on both current payments and arrearages, and cost-effectiveness. The new incentive system was constructed in such a way that States in aggregate were estimated to receive the same total amount of money that they received under the previous incentive system.

TABLE 1.—FINANCING OF THE FEDERAL/STATE CHILD SUPPORT ENFORCEMENT PROGRAM, FISCAL YEAR 1996  
[In thousands of dollars]

State	State income			State administrative expenditures (costs)	State net	Collections-to-costs ratio
	Federal administrative payments	State share of collections	Federal incentive payments			
Alabama .....	\$31,161	\$5,737	\$3,548	\$46,314	(\$5,868)	3.41
Alaska .....	11,517	8,085	2,973	17,439	5,136	3.31
Arizona .....	31,177	6,647	3,842	46,909	(5,244)	2.41
Arkansas .....	19,048	4,163	3,195	28,669	(2,263)	2.77
California .....	293,731	222,548	66,752	437,991	145,040	2.36
Colorado .....	25,399	15,001	5,590	38,361	7,628	2.82
Connecticut .....	29,035	12,645	7,086	43,027	5,740	2.91
Delaware .....	9,941	3,393	1,112	14,168	279	2.50
District of Columbia ..	7,731	2,526	1,103	11,696	(336)	2.38
Florida .....	86,999	30,216	13,501	131,363	(647)	3.13
Georgia .....	45,496	16,780	15,110	68,505	8,881	3.92
Guam .....	1,744	289	281	2,624	(310)	2.57
Hawaii .....	16,113	5,396	1,758	23,907	(640)	2.18
Idaho .....	12,535	2,942	1,961	18,928	(1,490)	2.32
Illinois .....	68,905	28,513	10,691	103,803	4,304	2.41
Indiana .....	21,416	14,186	7,658	30,091	13,170	6.54
Iowa .....	19,209	12,911	6,319	29,048	9,391	5.23
Kansas .....	12,296	10,704	5,265	18,489	9,776	5.82
Kentucky .....	27,927	9,646	5,514	42,210	877	3.43
Louisiana .....	23,058	6,266	4,270	34,495	(900)	4.16
Maine .....	10,224	9,459	4,907	15,435	9,155	4.05
Maryland .....	43,688	19,120	6,540	66,017	3,332	4.36
Massachusetts .....	40,626	30,494	9,828	61,286	19,662	4.05
Michigan .....	94,572	60,098	22,323	143,132	33,860	6.63
Minnesota .....	48,457	25,680	9,017	73,195	9,960	4.36
Mississippi .....	9,522	3,959	3,553	29,463	(2,430)	2.87
Missouri .....	52,173	22,161	9,635	74,419	9,549	3.75
Montana .....	8,038	2,122	1,326	12,120	(634)	2.42
Nebraska .....	20,007	3,964	1,750	30,179	(4,457)	3.16
Nevada .....	14,782	3,737	2,279	22,346	(1,548)	2.53
New Hampshire .....	9,377	4,518	1,539	14,091	1,343	3.42
New Jersey .....	73,147	39,238	12,698	110,735	14,348	4.52
New Mexico .....	15,914	1,344	975	21,129	(2,896)	1.43
New York .....	115,020	79,891	28,461	174,183	49,188	4.03

TABLE 1.—FINANCING OF THE FEDERAL/STATE CHILD SUPPORT ENFORCEMENT PROGRAM, FISCAL YEAR 1996—Continued  
[In thousands of dollars]

State	State income			State administrative expenditures (costs)	State net	Collections-to-costs ratio
	Federal administrative payments	State share of collections	Federal incentive payments			
North Carolina .....	59,282	20,653	10,732	89,147	1,521	2.94
North Dakota .....	4,352	1,662	990	6,563	441	4.34
Ohio .....	106,594	41,141	17,008	161,618	3,125	6.07
Oklahoma ....	16,968	6,674	3,666	24,040	3,269	3.06
Oregon .....	21,129	10,544	5,480	31,874	5,278	5.60
Pennsylvania .....	82,784	49,576	18,619	123,808	27,171	7.74
Puerto Rico ..	19,504	291	372	28,569	(8,401)	4.44
Rhode Island .....	5,451	6,839	3,262	8,251	7,300	4.31
South Carolina .....	23,296	6,797	4,154	35,100	(853)	3.37
South Dakota .....	3,173	1,936	1,399	4,770	1,738	5.87
Tennessee ....	26,165	10,195	5,328	39,342	2,347	4.06
Texas .....	96,614	32,915	15,873	144,984	418	3.71
Utah .....	19,497	5,136	3,217	29,170	(1,321)	2.66
Vermont .....	4,467	2,602	1,346	6,701	1,714	3.79
Virgin Islands .....	1,597	94	67	2,418	(660)	2.25
Virginia .....	40,844	18,475	5,988	61,507	3,800	4.18
Washington .....	76,319	49,348	16,449	115,322	26,795	3.53
West Virginia .....	15,578	3,230	2,065	23,358	(2,484)	3.61
Wisconsin ....	50,394	19,115	10,659	74,058	6,110	5.94
Wyoming .....	5,575	1,835	647	8,455	(398)	2.96
Nation-wide	2,039,569	1,013,437	409,681	3,054,821	407,866	3.93

Note.—The "State net" column in this table is not the same as the comparable figure presented in annual reports of the Office of Child Support Enforcement (see for example, 1996, p. 78 and table 8-23 below) because estimated Federal incentive payments are used in the annual reports while final Federal incentive payments were used in this table.

Source: Office of Child Support Enforcement, U.S. Department of Health and Human Services.

These three sources of funding produced a total of \$3.46 billion for States in 1996, the most recent year for which complete data are available. Because States spent only \$3.05 billion conducting their child support programs in that year, they enjoyed a positive net revenue flow of nearly \$408 million. Indeed, as shown in Table 2, States have enjoyed a positive net revenue flow every year the child support program has been in operation. By contrast, the Federal government has always paid more money into the program than it has received back. In 1996, for example, while States were clearing over \$400 million on the program, the Federal government invested a net total of \$1.152 billion in the program (Table 2).

TABLE 2.—FEDERAL AND STATE SHARE OF CHILD SUPPORT "SAVINGS," FISCAL YEARS 1979-96  
[In millions of dollars]

Fiscal year	Federal share of child support savings <sup>1</sup>	State share of child support savings	Net public savings <sup>1</sup>
1979 .....	—\$43	\$244	\$201
1980 .....	—103	230	127
1981 .....	—128	261	133
1982 .....	—148	307	159
1983 .....	—138	312	174
1984 .....	—105	366	260

TABLE 2.—FEDERAL AND STATE SHARE OF CHILD SUPPORT “SAVINGS,” FISCAL YEARS 1979–96—Continued  
[In millions of dollars]

Fiscal year	Federal share of child support savings <sup>1</sup>	State share of child support savings	Net public savings <sup>1</sup>
1985 .....	– 231	317	86
1986 .....	– 264	274	9
1987 .....	– 337	342	5
1988 .....	– 355	381	26
1989 .....	– 480	403	– 77
1990 .....	– 528	338	– 190
1991 .....	– 586	385	– 201
1992 .....	– 605	434	– 170
1993 .....	– 740	462	– 278
1994 .....	– 978	482	– 496
1995 .....	– 1,274	421	– 853
1996 (preliminary) .....	– 1,152	407	– 745

<sup>1</sup> Negative “savings” are costs.

Source: Office of Child Support Enforcement, Annual Reports to Congress, 1996 and various years.

The Committee does not argue that the Federal investment in child support enforcement lacks merit. On the contrary, the Committee believes these Federal dollars are wisely invested. To take 1996 as an example, the net sum of \$1.152 billion invested in this program by the Federal government produced total child support collections of over \$12 billion, most of which went to families to support children. The Committee does argue, however, that there should be a more equal sharing of program costs between the Federal government and the States. Those who oppose this view must explain why the Federal government should always spend more on the program than the States. The Committee proposal on the hold harmless provision moves in this direction by reducing Federal spending by about \$50 million in the early years, with a gradual decline to \$15 million in the 10th year. This amount is much lower than the positive net revenue flow enjoyed by States in 1996.

Because States were concerned that they would lose money by transferring part of the State share of collections to families leaving welfare, the Committee agreed to a provision that, when fully implemented, had the effect of allowing States and the Federal government to retain approximately half of the collections on arrearages and the family to receive approximately half of the collections on arrearages (current support payments go entirely to the family once the family leaves welfare). In this way, the loss of revenue to States would be cut by approximately half. Furthermore, States were relieved of the obligation to pay the first \$50 of child support to families while they are on welfare. Given the profitability of the child support program to the States, this compromise was disputed by many Members of the Committee because, in their view, States could afford to spend some of their positive cash flow on families leaving welfare. Nonetheless, the Committee agreed to this part of the compromise.

Despite this compromise, States still insisted on a guarantee that if their share of collections declined at all, relative to 1995, the Federal government would make up the difference through the hold harmless provision. Although strongly disputed by the Committee,

the hold harmless provision became part of the welfare reform legislation.

The Committee argument that States can afford to share more collections with welfare families has been greatly strengthened since enactment of the 1996 welfare reform law because States have experienced substantial declines in welfare enrollment. Given that the 1996 legislation provided States with fixed Federal funding through the Temporary Assistance for Needy Families (TANF) block grant, these declining welfare caseloads are now resulting in large TANF surpluses for States. According to the Congressional Budget Office, by the end of fiscal year 1999 States will have over \$6 billion (\$3 billion of which has been obligated) in unused TANF funds. By the end of 2003, under CBO projections the TANF surplus will grow to more than \$24 billion. Thus, even if States do lose a share of their collections in welfare cases because the new Federal rule requires them to share part of the collections with families leaving welfare, the State loss is being more than offset by State savings in welfare expenditures.

A broader issue in play here is the impact of the current decline in the welfare rolls on child support financing. Given that the typical state gets about 30 percent of the money it uses to run its child support program from retained collections in welfare cases (see Table 1), changes in the welfare caseload may be portentous for the future financing of State child support programs. In the long run, fewer welfare cases may mean lower collections and therefore a hole in State child support budgets. On the other hand, the 1996 welfare reform law made major changes in the child support program that are expected to substantially increase collections and efficiency. These two developments associated with welfare reform—the declining welfare caseload and the increased effectiveness of the child support program—may be offsetting to some degree. CBO expects increased child support effectiveness to result in collection increases and other performance improvements that will lead to a decline in the amount by which retained collections in 1995 exceed those in future years (recall that their projection is that from a high of \$50 million in 2000, the difference will decline to \$15 million in 2009).

In any case, the hold harmless provision was not designed to hold States harmless against declines in the welfare rolls; it was designed exclusively to hold States harmless against losses due to splitting collections with families. In this regard, it is important to note that some States received hold harmless payments before they implemented the new family first distribution scheme. Regardless of what is done about the hold harmless provision, many States may face issues over the next several years in the way they finance their child support program.

States have also argued that the hold harmless provision is a fundamental part of the agreement on welfare reform between the States and Federal government. But this view is questionable. Child Support Enforcement is separate from TANF in the Federal statutes, State statutes, Federal administration, and State administration. Although related, they are clearly separate and distinct programs. Moreover, during negotiations between Congress and the

governors on the 1996 welfare reform law, the hold harmless provision was negotiated separately from welfare reform.

#### Title IV. Technical Corrections

##### *Present law*

Not applicable.

##### *Explanation of provision*

This section contains miscellaneous technical amendments to the 1996 welfare reform law.

##### *Reason for change*

The purpose of these technical amendments is to correct minor errors or inconsistencies in Title IV–A of the Social Security Act.

### III. VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the vote of the Committee in its consideration of the bill, H.R. 1802.

#### MOTION TO REPORT THE BILL

The bill, H.R. 1802, as introduced, was ordered favorably reported by voice vote on May 26, 1999, with a quorum present.

### IV. BUDGET EFFECTS OF THE BILL

#### A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) rule XIII of the Rules of the House of Representatives, the following statement is made:

The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO) which is included below.

#### B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that although the Committee bill results in increased budget authority, the bill provides for savings in budget authority so that the entire bill is deficit neutral over 5 years. The bill contains no new tax expenditures.

#### C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) rule XIII of the Rules of the House of Representatives requiring a cost estimate prepared by the Congressional Budget Office (CBO), the follow report prepared by CBO is provided.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, D.C. June 9, 1999.*

Hon. BILL ARCHER,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1802, the Foster Care Independence Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Sheila Dacey, Eric Rollins, Dorothy Rosenbaum, and Jeanne De Sa.

Sincerely,

BARRY B. ANDERSON,  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 1802—Foster Care Independence Act of 1999*

Summary: H.R. 1802 would increase funding for the Independent Living program that assists foster care children and would give states a new option for providing health coverage for former foster children through the Medicaid program. Other provisions in the bill would improve payment accuracy and reduce fraud in the Supplemental Security Income (SSI) and Social Security Disability Insurance (DI) programs and reduce federal payments to states under the child support program.

CBO estimates that this bill would increase discretionary spending by \$7 million over the 2000–2004 period due to higher administrative expenses for the Social Security Administration (SSA). H.R. 1802 would also reduce direct spending by \$5 million over the same period. The bill would increase spending in the Foster Care and Medicaid programs by \$291 million and \$195 million, respectively. These increases would be offset by reduced spending in the child support (\$230 million), SSI (\$125 million), Medicaid (\$118 million), Food Stamp (\$3 million), and State Children's Health Insurance (\$15 million) programs. H.R. 1802 would not have a significant impact on DI spending. Because the bill would affect direct spending, pay-as-you-go procedures would apply.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any provisions that relate to the Old-Age, Survivors, and Disability Insurance (OASDI) program under title II of the Social Security Act. CBO has determined that the provisions of this bill that affect the DI program fall within that exclusion.

Section 210 of the bill would deem certain requests for information from the Commissioner of Social Security as meeting state privacy requirements, thus preempting state law. This preemption would be a mandate as defined in UMRA, but it would not affect the budgets of state, local, or tribal governments. The remainder of the bill contains no intergovernmental mandates as defined by UMRA, but state, local, and tribal governments would be affected by federal assistance, changes in enrollment for Medicaid and SSI,

and a reduction in funding associated with child support. The bill contains no private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1802 is shown in Table 1.

The costs of this legislation fall within budget functions 550 (health) and 600 (income security). This estimate assumes that H.R. 1802 is enacted by September 1999.

TABLE 1: ESTIMATED BUDGETARY EFFECTS OF H.R. 1802

	By fiscal year, in millions of dollars					
	1999	2000	2001	2002	2003	2004
Spending Subject to Appropriations						
Baseline: SSI Administration .....	2,434	2,499	2,509	2,590	2,671	2,754
Proposed changes: SSI Administration .....	0	1	1	3	1	1
Spending under H.R. 1802: SSI Administration .....	2,434	2,500	2,510	2,593	2,672	2,755
Direct Spending						
Baseline:						
Foster care and adoption assistance .....	4,841	5,296	5,768	6,253	6,751	7,255
Supplemental security income .....	28,179	29,625	31,258	33,005	34,826	36,766
Medicaid .....	107,484	116,578	124,841	134,927	146,073	159,094
State Children Health Insurance Program .....	800	2,000	3,000	3,900	4,017	4,138
Child support enforcement .....	2,486	2,792	2,980	3,229	3,574	3,854
Food stamps .....	20,353	21,439	22,480	23,314	23,985	24,687
Total .....	164,143	177,730	190,327	204,628	219,226	235,794
Proposed changes:						
Foster care and adoption assistance .....	0	13	58	73	73	74
Supplemental security income .....	0	<sup>1</sup>	-3	-42	-40	-40
Medicaid .....	0	5	13	0	25	34
State Children Health Insurance Program .....	0	-1	-2	-3	-4	-5
Child support enforcement .....	0	-50	-50	-45	-45	-40
Food stamps .....	0	0	<sup>1</sup>	-1	-1	-1
Total .....	0	-33	16	-18	8	22
Spending under H.R. 1802:						
Foster care and adoption assistance .....	4,841	5,309	5,826	6,326	6,824	7,329
Supplemental security income .....	28,179	29,625	31,255	32,963	34,786	36,726
Medicaid .....	107,484	116,583	124,854	134,927	146,098	159,128
State Children Health Insurance Program .....	800	1,999	2,998	3,897	4,013	4,133
Child support enforcement .....	2,486	2,742	2,930	3,184	3,529	3,814
Food stamps .....	20,353	21,439	22,480	23,313	23,984	24,686
Total .....	164,143	177,697	190,343	204,610	219,234	235,816

<sup>1</sup> Less than \$500,000.

Note: Components may not sum to totals due to rounding.

#### BASIS OF ESTIMATE

##### *Discretionary spending*

CBO estimates that H.R. 1802 would increase discretionary spending by \$7 million over the 2000–2004 period due to higher administrative expenses for SSA.

Period of Ineligibility for Certain Asset Transfers.—Section 207 of the bill would impose a period of ineligibility on SSI applicants who dispose of resources for less than fair market value. CBO estimates that SSA would have to investigate about 4,300 applicants annually under this provision and that each investigation would cost about \$200. The number of investigations is higher than the

number of applicants that would actually be made ineligible (which CBO estimates would be about 2,800) because not all investigations would result in a period of ineligibility. CBO estimates that these investigations would increase SSA's administrative expenses by about \$850,000 annually over the 2000–2004 period. The effects of this provision on direct spending are discussed below.

**Study on Additional Fraud Measures.**—Section 211 of the bill would require SSA to conduct a study on the need for additional measures to prevent fraud in the SSI and DI programs. This study would have to be completed within one year of the bill's enactment. Based on discussions with SSA about the number of people needed to conduct the study, CBO estimates that this provision would increase SSA's administrative expenses by \$550,000 in 2000.

**Allow Monitoring of Bank Accounts.**—Section 214 of the bill would authorize SSA to monitor the bank accounts of SSI recipients to check for unreported assets. This provision would replace a data match that SSA currently conducts using tax information. CBO estimates that this new monitoring system would not be in place until 2002, and that the additional investigations generated by this monitoring would increase SSA administrative expenses by \$2 million in 2002 and about \$350,000 annually in 2003 and 2004. The figure for 2002 is higher because the shift to the new monitoring system would result in a one-time speeding up of detections. The direct spending effects of this provision are also discussed below.

#### *Direct spending*

**Title I: Improved Independent Living Program.**—Title I of H.R. 1802 would modify and expand funding for the Independent Living program, permit children in foster care to hold larger amounts of assets, and allow states to create a new Medicaid eligibility category for children who have reached age 18 and are no longer eligible for foster care. The estimated effects of title I on direct spending are shown in Table 2.

TABLE 2: ESTIMATED DIRECT SPENDING EFFECTS OF TITLE I OF H.R. 1802

	By fiscal year, in millions of dollars					
	2000	2001	2002	2003	2004	5-year total
Improved Independent Living Program: Foster care and adoption assistance:						
Budget authority .....	70	70	70	70	70	350
Outlays .....	10	55	70	70	70	275
Increased allowable assets: Foster care and adoption assistance:						
Budget authority .....	3	3	3	3	4	16
Outlays .....	3	3	3	3	4	16
State option for Medicaid coverage:						
Medicaid:						
Budget authority .....	5	20	40	60	70	195
Outlays .....	5	20	40	60	70	195
S-CHIP:						
Budget authority .....	0	0	0	0	0	0
Outlays .....	–1	–2	–3	–4	–5	–15
Total:						
Budget authority .....	78	93	113	133	144	561

TABLE 2: ESTIMATED DIRECT SPENDING EFFECTS OF TITLE I OF H.R. 1802—Continued

	By fiscal year, in millions of dollars					5-year total
	2000	2001	2002	2003	2004	
Outlays .....	17	76	110	129	139	471

*Improved Independent Living Program.* Section 101 would provide states with more funding and greater flexibility to carry out the Independent Living program.

The Independent Living program provides services to older foster children and former foster children to help them successfully make the transition from foster care to life on their own. The Independent Living program is an entitlement to states capped at \$70 million annually. Funds are allocated to states on the basis of each state's share of children receiving federal foster care assistance under title IV-E in 1984. States are required to provide a dollar-for-dollar match for federal funds received above their share of the first \$45 million. Activities authorized under the Independent Living program include vocational training, training in daily living skills, and other services designed to improve the transition to independent living.

Section 101 would raise the cap on Independent Living funding from \$70 million to \$140 million annually. The old matching formula would be replaced by one that requires states to provide one dollar for every four federal dollars. Funds would be allocated to states on the basis of each state's share of the number of children in foster care in the most recent year that data is available. However, no state's funding could fall below its 1998 level. Any unused funds would be reallocated to other states. The Secretary of Health and Human Services would reserve 1.5 percent of the \$140 million for evaluation, technical assistance, performance measurement, and data collection. States would be allowed to use up to 30 percent of their allotments for room and board expenses for former foster children between 18 and 21 years old.

Section 101 would provide additional funding totaling \$350 million in fiscal years 2000 through 2004; CBO estimates that outlays would amount to \$275 million over that period. CBO assumes that states would spend the increased funding at the same rate that they currently spend Independent Living funds.

*Increased Allowable Assets.* Section 111 would raise the limit on the amount of assets a child would have while remaining eligible for federal foster care assistance. Under current law children are eligible for federal foster care assistance if the family from which the child was removed would have been eligible for the Aid to Families with Dependent Children (AFDC) program as it was on June 1, 1995. To be eligible for AFDC, a family could not have more than \$1,000 in assets. This provision would allow children in foster care to have up to \$10,000 in assets and retain eligibility for federal foster care assistance.

CBO estimates that 1 percent of children in Independent Living programs have between \$1,000 and \$10,000 in assets and thus would be made newly eligible for federal foster care assistance. While any child in foster care might have assets that exceed

\$1,000, we estimated that the older children participating in Independent Living programs are the most likely to have higher assets. No administrative data or survey data record the assets of children in foster care. The estimate is based on conversations with national experts and state officials. CBO estimates that about half of the children in Independent Living programs, 45,000 children, would not currently be eligible for federal foster care assistance and that this provision would make 1 percent of them, 450 children, newly eligible for federal foster care payments. The federal government would spend \$3 million more in 2000 based on an average annual federal cost of \$7,000. That cost would rise to \$4 million by 2004, as both foster care caseloads and average benefit amounts increased, for a total cost of \$16 million over the 2000–2004 period.

*State Option for Medicaid Coverage.* Section 121 of H.R. 1802 would allow states to provide Medicaid eligibility to former foster children until their 21st birthday. CBO estimates that the provision would increase federal Medicaid outlays by \$5 million in 2000 and \$195 million over the 2000–2004 period. Savings amounting to \$15 million over the same period would occur in the State Children's Health Insurance Program (S-CHIP).

Children who receive federally-funded foster care are automatically eligible for Medicaid. Most children who receive state-funded foster care also are eligible for Medicaid. Automatic Medicaid eligibility ends when foster care ends—typically on the child's 18th birthday. Based on state-reported data on the number of children in foster care, CBO estimates that in 1998 there were 65,000 people who were 18, 19, or 20 years old, had received foster care on their 18th birthday, and were no longer receiving foster care. CBO projects this figure will rise to 80,000 by 2004.

Under current law there are several pathways to eligibility for young adults who have reached age 18 and are no longer eligible for foster care. They are eligible for Medicaid if they are disabled and receive SSI, or if they are a low-income parent and meet the state's welfare-related Medicaid eligibility criteria. In addition, 18 year-olds are eligible for Medicaid or S-CHIP if they meet the state's income criteria for those programs. Finally, states may cover children up to age 21 who would be eligible for cash welfare if they met the definition of dependent child. (This state option is often referred to as the Ribicoff provisions.) Based on conversations with state staff and available research on the circumstances of former foster children, CBO estimates that about 60 percent of former foster care children are eligible for Medicaid and that just over half of those who are eligible are currently enrolled. In 2004 this would correspond to 48,000 eligible individuals and 27,000 enrollees.

Under H.R. 1802, CBO estimates that both eligibility and participation among former foster care children would be higher. The bill would allow states to target eligibility to former foster children as a specific eligibility group. In addition, states could determine the income and resource limits that would apply or eliminate the means test altogether. CBO assumes that three-quarters of the states that have adopted the Ribicoff provisions and two-thirds of the other states would take up the option. Under the option, CBO assumes that the total proportion of former foster children who would be eligible would increase to 85 percent. CBO further as-

sumes that states will enroll a larger proportion (75 percent) of eligibles by eliminating or raising the means test and by streamlining the eligibility process. In 2004 these assumptions result in 68,000 eligible individuals and 51,000 enrollees, or a net increase in enrollment of about 24,000.

Research and administrative data show that children who are in foster care have average medical costs that are two to five times higher than costs for other children who receive Medicaid. Higher average costs are largely, though not exclusively, attributable to greater mental health needs. Because many of the people with the greatest medical needs are likely already participating under current eligibility rules, and because former foster children may not seek as many services as foster children, CBO assumes average federal Medicaid costs per person would be twice the average for Medicaid children, or about \$2,700 a year in 2004. Federal Medicaid costs for these new enrollees would total \$65 million in 2004.

In addition, some 18 year-old former foster children are currently eligible for S-CHIP rather than Medicaid. Under the bill, if the state takes the option to expand eligibility to former foster children, those children would lose S-CHIP eligibility and would participate in Medicaid instead. Because not all states will have exhausted their S-CHIP funds, spending for S-CHIP would be reduced by \$5 million in 2004 and Medicaid spending would increase by a similar amount.

**Title II: SSI Fraud Prevention.**—Title II primarily contains provisions aimed at improving payment accuracy and program integrity in the SSI program. Another provision would allow SSI recipients who served in certain Filipino military units during World War II to receive a reduced benefit if they move back to Philippines. The direct spending effects of title II are shown in Table 3.

TABLE 3: ESTIMATED DIRECT SPENDING EFFECTS OF TITLE II OF H.R. 1802

	Outlays by fiscal year, in millions of dollars				
	2000	2002	2003	2004	5-year total
Additional debt collection tools .....	0	0	-5	-10	-25
Count certain trusts as resources .....	( <sup>1</sup> )	( <sup>1</sup> )	-1	-1	-4
Period of ineligibility for certain asset transfers:					
SSI .....	-a	-2	-4	-6	-19
Medicaid .....	-a	-2	-5	-8	-25
Subtotal .....	-a	-4	-9	-14	-44
Allow monitoring of bank accounts:					
SSI .....	0	0	-30	-21	-70
Medicaid .....	0	0	-22	-18	-60
Subtotal .....	0	0	-55	-39	-130
Benefit for Filipino veterans:					
SSI .....	0	-1	-2	-2	-7
Medicaid .....	0	-5	-10	-9	-33
Food stamps .....	0	( <sup>1</sup> )	-1	-1	-3
Subtotal .....	0	-6	-13	-12	-43

TABLE 3: ESTIMATED DIRECT SPENDING EFFECTS OF TITLE II OF H.R. 1802—Continued

		Outlays by fiscal year, in millions of dollars				
		2000	2002	2003	2004	5-year total
Total .....	(1)	– 10	– 83	– 76	– 77	– 246

<sup>1</sup> Less than \$500,000.

*Additional Debt Collection Tools.* Section 203 of the bill would allow SSA to use additional debt collection practices in recovering SSI overpayments. These practices include assessing interest and penalties on overpayments, reporting individuals who are slow to repay to credit bureaus, and contracting with private collection agencies. SSA already uses these debt collection practices for Social Security overpayments.

Under current law, SSA's primary method of recovering SSI overpayments is through benefit offsets. Individuals who have been overpaid and are receiving either SSI or Social Security can have up to 10 percent of their monthly benefits withheld until the overpayment has been recovered. SSA's ability to recover overpayments from individuals who are not receiving SSI or Social Security is much more limited. SSA can do little more than send these individuals repeated requests for repayments, usually with no results. As a final step after these requests have failed, SSA can ask the Treasury Department to withhold any tax refunds due to individuals who have been overpaid. However, most SSI recipients have sufficiently low incomes that they are not affected.

Like the tax refund offset, these new debt collection tools would be used only after the benefit offsets and requests for voluntary repayment have failed. These new tools would take a significant amount of time to implement and likely would not be available before fiscal year 2002. According to SSA, about \$400 million in delinquent SSI debt is outstanding at any one time. SSA recovers about \$60 million of this debt—15 percent—annually using current collection methods. CBO estimates that the additional debt collection tools in H.R. 1802 would allow SSA to recover an additional 2 to 2.5 percent of this delinquent debt. These additional collections would boost recoveries, which are considered offsetting receipts, by \$25 million over the 2000–2004 period.

*Count Certain Trusts as Resources.* In order to qualify for SSI benefits, an individual's total resources must fall within certain limits. For SSI purposes, the term "resources" includes most types of assets but excludes certain items like a primary residence and a car. SSI also excludes assets that an individual has placed in an irrevocable trust. By comparison, assets placed in a revocable trust are considered resources since an individual can dissolve the trust and regain control over the assets.

Section 206 of the bill would count the assets that an individual places in an irrevocable trust as resources if the trust could still make payments for the individual's benefit. This new policy would apply only to trusts formed after December 31, 1999, and would incorporate exemptions for certain disabled individuals contained in a similar policy in the Medicaid program.

According to SSA, about 20,000 current SSI recipients have irrevocable trusts. Since turnover for the SSI caseload is about 10

percent annually, CBO assumes that the provision would affect about 2,000 new trusts each year. CBO assumed that 90 percent of trusts would meet one of the bill's exceptions and not be counted as resources. The exceptions apply primarily to disabled individuals, and research by SSA suggests that most trusts are held by disabled children and disabled adults. As a result, CBO estimates that about 200 individuals each year would be ineligible for SSI under this provision and that the resulting benefit savings would total \$4 million over the 2000–2004 period.

*Period of Ineligibility for Certain Asset Transfers.* There is currently no penalty for individuals who transfer or sell assets for less than fair market value in order to meet SSI's asset restrictions. (SSI did penalize these transfers from 1981 to 1988, usually by imposing a two-year period of ineligibility.)

Section 207 of the bill would impose a period of ineligibility on SSI applicants who transfer assets for less than market value. The new SSI restrictions would be similar to those that already exist in the Medicaid program for individuals seeking institutional services, and would apply only to asset transfer taking place in the three-year period prior to application. The length of the period of ineligibility would vary according to the uncompensated value of the assets that were transferred but could not exceed 36 months. These new provisions would apply only to asset transfers taking place after enactment.

Based on a 1996 study by the General Accounting Office, CBO estimates that about 2,800 SSI applicants annually have transferred assets within the previous three years and would be subject to this provision. Initially, many applicants would not be affected since they transferred assets prior to the bill's enactment. However, about 5,300 people would be ineligible for SSI by 2004. CBO estimates that the resulting SSI benefit savings would total \$19 million over the 2000–2004 period.

CBO estimates that the change in SSI treatment of asset transfers would also result in federal Medicaid savings of \$25 million over the 2000–2004 period. CBO assumes that under the provision, about half of the individuals who lose SSI eligibility would also lose eligibility for Medicaid.

In some states, prohibitions or asset divestiture for noninstitutional care already prohibit SSI recipients who have transferred assets from receiving Medicaid. Although under current law the states must impose penalties for transferring assets on applicants who seek institutional services, states may apply the same criteria to applicants seeking noninstitutional services. In states where SSI eligibility does not automatically confer Medicaid eligibility, Medicaid beneficiaries who transferred resources to get SSI would not be affected by the policy. These states (known as 209(b) states) establish their own eligibility criteria for SSI-related Medicaid coverage. Additionally, in some states, individuals losing SSI would be eligible for state medically-needy programs, which allow beneficiaries to deplete their income and resources to Medicaid eligibility levels because of high medical expenses.

Per capita expenditures for those who would lose Medicaid eligibility are likely to be similar to expenses for acute and noninstitutional care services for current Medicaid beneficiaries—about

\$2,400 a year in 2000 for aged persons and \$4,000 for disabled persons. CBO assumes that most people affected by the bill would be aged.

*Allow Monitoring of Bank Accounts.* Section 214 of the bill would allow SSA to obtain financial records for SSI recipients to ensure that they meet SSI's resource restrictions and remain eligible for benefits. SSA already has the authority to get a recipient's financial records, but only on a case-by-case basis and with the recipient's permission. This bill would require recipients to give their permission automatically or risk losing their eligibility. This would allow SSA to conduct periodic data matches with financial institutions to check for unreported assets.

SSA currently checks for unreported assets in bank accounts through a data match with the Internal Revenue Service (IRS) based on the information on form 1099, which is issued to individuals with interest income. SSA generally conducts this match in September or October each year, using IRS data for the previous tax (i.e., calendar) year. This means that recipients with unreported bank accounts may be overpaid for as much as 22 months before detection. And since the current match is based on form 1099, it does not cover SSI recipients with assets in non-interest-bearing accounts. Switching to periodic direct matches with financial institutions would allow SSA to obtain information on unreported assets in a more timely manner and monitor some non-interest-bearing accounts.

CBO estimates that under current law between 7,000 and 8,000 recipients annually lose their SSI eligibility as a result of the 1099-based match. Many of these individuals subsequently regain eligibility by spending down their assets to meet SSI's asset restrictions. Research by SSA suggests that over 40 percent of SSI recipients who are suspended for having excess resources return to the rolls within a year, and that about 60 percent of suspended recipients return within four years.

Based on discussions with SSA, CBO estimates that this provision would not be fully implemented until 2002. SSA will need at least two years to negotiate, develop, and test a data-sharing protocol with the financial industry that would allow these periodic data matches. This match would be conducted primarily with large national and regional banks.

Starting in 2002, CBO estimates that an additional 6,000 SSI recipients would become ineligible under the new match. These additional suspensions would mostly represent a speeding up of detections that would have occurred later under the current matching process. Based on information from the Federal Reserve, CBO also assumes that total suspensions would increase by about 10 percent due to improve detection of non-interest-bearing accounts. By 2004, many suspended recipients would have returned to the SSI rolls, and CBO estimates that the number of additional suspended recipients would decline to about 3,500. Overall, CBO estimates that this provision would reduce spending on SSI benefits by \$70 million over the 2000–2004 period.

CBO assumes that most people who lose SSI eligibility due to resources above the SSI limit would also be disqualified from Medicaid, since the Medicaid resource limit is usually the same as the

SSI limit. At an average annual cost of \$2,400 for aged individuals and \$4,000 for disabled individuals in 2000, CBO estimates total Medicaid savings of \$60 million over the 2000–2004 period.

*Benefit for Filipino Veterans.* Under current law, SSI recipients must usually live in the United States to remain eligible for benefits. Section 251 would allow recipients who served in certain Filipino military units during World War II to remain eligible even if they move back to the Philippines. Recipients who return to the Philippines would have their SSI benefit reduced by about 25 percent and would become ineligible for Medicaid or food stamps. This provision would apply only to Filipino veterans receiving SSI at the time of the bill's enactment and would take effect a year after enactment.

During World War II, the Philippines was still an American commonwealth. In 1941, President Roosevelt issued an executive order that attached the Commonwealth Army and other military units to the U.S. armed forces for the duration of the war. An estimated 200,000 Filipinos ultimately served in these units, and somewhere between 80,000 and 90,000 are still alive today.

Most of the Filipino veterans who are now receiving SSI probably came to the United States under a special provision of the Immigration Act of 1990 that allowed them to become naturalized citizens. According to the Immigration and Naturalization Service (INS), about 17,500 veterans have become citizens under this provision. However, veterans could naturalize in either the Philippines or the United States, and INS does not know how many veterans are in this country. CBO estimated that about 16,000 naturalized veterans are still alive and assumed that 80 percent of the veterans who naturalized are in the United States, and that half of them get SSI. The percentage of veterans on SSI should be high; virtually all veterans are well over 65 years old and those who spent most of their lives in the Philippines are probably poor. CBO also assumed that another 1,000 veterans who either arrived before 1990 or arrived after 1990 as noncitizens are also getting benefits. Overall, CBO estimated that about 7,300 Filipino veterans are currently receiving SSI benefits.

Filipino veterans who have little or no family in this country are most likely to take advantage of the reduced SSI benefit offered in H.R. 1802. Unfortunately, very little demographic information is available on the veterans in this country. CBO assumed that 20 percent of the veterans on SSI would return to the Philippines. Although expansions of benefits often attract additional people to the benefit rolls, that effect seems likely to be small for this particular proposal. Relative to current law, CBO estimates that this provision would reduce SSI outlays by \$7 million over the 2000–2004 period. Since veterans who return to the Philippines would become ineligible for food stamps and Medicaid, this provision would also reduce spending in those programs by \$3 million and \$33 million, respectively, over the same period.

**Title III: Child Support.**—Title III would eliminate the hold-harmless provision of the child support program. Under current law, federal and state governments retain any child support collected on behalf of current recipients and certain support collected on behalf of former TANF recipients. Under the hold-harmless pro-

vision, the federal government guarantees that a state's amount of retained child support will not fall below the amount that it retained in fiscal year 1995. In 1999, the federal government made hold-harmless payments to 19 states, the District of Columbia, and Guam totaling \$45 million. CBO projects hold-harmless payments will rise to \$50 million in 2000 as child support collections fall and fall to \$40 million by 2004 as collections grow slightly. Eliminating the hold harmless provision would save a total of \$230 million over the 2000–2004 period.

Pay-as-you-go considerations: The provisions of H.R. 1802 would affect direct spending and thus be subject to pay-as-you-go procedures. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in Table 4. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

TABLE 4: ESTIMATED PAY-AS-YOU-GO EFFECTS OF H.R. 1802

	By fiscal year, in millions of dollars									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays .....	–33	16	–18	8	22	27	36	49	53	62
Changes in receipts .....					not applicable					

#### INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

##### *Exclusions*

Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any provisions that relate to the Old-Age, Survivors, and Disability Insurance program under title II of the Social Security Act. CBO has determined that the provisions of this bill that affect the DI program fall within that exclusion.

##### *Mandates*

Under current law, the Commissioner of Social Security is authorized to request information from states in order to determine eligibility for Supplemental Security Income benefits. The bill would deem the standards of the Commissioner for the use, safeguarding, and disclosure of such information to meet the standards of state law and regulations. In doing so, the bill would preempt state laws and regulations and would be a mandate as defined in UMRA. CBO estimates that the mandate would not affect the budgets of state, local, or tribal governments because, although it would preempt state authority, states would not be required to take any action.

H.R. 1802 contains no private-sector mandates as defined in UMRA.

##### *Other Impacts*

Independent Living Program.—The bill would raise the cap and change state matching rates for the Independent Living program. States are currently required to provide a 50-percent match in order to receive federal funds over \$45 million. This entitlement is currently capped at \$70 million annually. The bill would both raise the cap to \$140 million annually (less 1.5 percent for federal ad-

ministrative expenses) and institute a matching rate of 20 percent. These changes would result in additional funding to states of \$68 million annually but they would be required to provide matching funds of \$10 million more than they are currently spending.

**Change in Asset Limitation for Foster Care.**—The bill would also increase the amount of assets a child could have while remaining eligible for federal foster care assistance. CBO estimates that this change would make 450 more children eligible for federal foster care assistance. States currently pay all of the foster care costs for these children. With the change in this bill, states would provide matching funds for foster care at their state Medicaid matching rate. Total state spending for these children thus would decline from \$28 million to \$12 million over the 2000–2004 period.

**Supplemental Security Income.**—All but eight states provide some form of optional supplementation for recipients of SSI. Just as the proposed changes in the bill would result in savings to the federal government, state spending for supplemental SSI payments would also be reduced due to greater fraud prevention activities and longer periods of ineligibility for asset transfers. The bill also would allow Filipino veterans to receive reduced SSI benefits if they move to the Philippines. In those cases, state supplements (which are paid to residents) would cease. In total, CBO estimates that states would save approximately \$17 million in state supplemental payments over the 2000–2004 period as a result of these changes.

**Medicaid.**—The bill would allow states to extend Medicaid eligibility for former foster children aged 18 to 21 years old. Adopting such an option would increase state spending for Medicaid. It may be more expensive for states that currently cover 18 year-olds under S-CHIP because the match rate for S-CHIP is higher than that for Medicaid. CBO estimates that the net increase in state spending from this option over the 2000–2004 period would be \$140 million for Medicaid and S-CHIP.

Title II of the bill would also make a number of changes to the SSI program that would affect Medicaid spending because in most states SSI receipt automatically confers Medicaid eligibility. The proposed changes to SSI regarding asset transfers, monitoring of bank accounts, and enrollment eligibility for Filipino veterans are estimated to save states approximately \$90 million in Medicaid spending over the 2000–2004 period.

**Child Support Hold-Harmless Provision.**—Under current law, states may retain a portion of child support collections in order to reimburse themselves for TANF payments they made for children that were owed child support. In cases where states have been unable to collect child support equal to the 1995 level, the federal government has provided funding to make up the difference. The bill would eliminate this guarantee, resulting in annual losses to states ranging from \$40 million to \$50 million annually and totaling \$230 million over the 2000–2004 period.

Estimate prepared by: Federal Costs: Foster Care: Sheila Dacey; Supplemental Security Income: Eric Rollins; Medicaid: Dorothy Rosenbaum and Jeanne Da Sa; Impact on State, Local, and Tribal Governments: Leo Lex; Impact on the Private Sector: Theresa Devine.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

## **V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the need for this legislation was confirmed by the oversight hearings of the Subcommittee on Human Resources. The hearings were as follows:

The Subcommittee on Human Resources held a hearing on May 13, 1999, to receive comments on H.R. 1802, the bipartisan legislation written by Chairman Johnson and Mr. Cardin. Testimony at the hearing was presented by scholars, program administrators, foundation executives, a Member of Congress, and adolescents participating in programs designed to help adolescents in foster care achieve self-sufficiency through employment or post-secondary education. The Subcommittee also conducted a hearing on March 9, 1999, which included testimony from the Administration, child advocacy groups, program administrators, and former foster children.

The Committee bill also includes extensive provisions addressed to reducing fraud and abuse in the Supplemental Security Income (SSI) program. The Subcommittee on Human Resources held a hearing on SSI fraud and abuse on February 3, 1999, which included testimony from Members of Congress, the Administration, and organizations representing citizens with disabilities and Filipino veterans. On February 10, 1999, the Subcommittee ordered favorably reported to the full Committee on Ways and Means, as amended, H.R. 631, the "SSI Fraud Prevention Act of 1999," which is now included as Title II of H.R. 1802, the "Foster Care Independence Act of 1999."

In the 105th Congress, the Subcommittee on Human Resources held a hearing on SSI fraud and abuse, on April 21, 1998, which included testimony from Members of Congress, the Administration, and a former Social Security claims representative.

### **B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE GOVERNMENT REFORM AND OVERSIGHT COMMITTEE**

In compliance with clause 3(c)(4) rule XIII of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been submitted to the Committee on Government Reform and Oversight regarding the subject of the bill.

### **C. CONSTITUTIONAL AUTHORITY STATEMENT**

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for \* \* \* the general Welfare of the United States \* \* \*").

## VI. CHANGES IN EXISTING LAWS MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### SOCIAL SECURITY ACT

\* \* \* \* \*

#### TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

\* \* \* \* \*

##### AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

##### Old Age Insurance Benefits

SEC. 202. (a) \* \* \*

\* \* \* \* \*

(w)(1) \* \* \*

(2) For purposes of this subsection, the number of increment months for any individual shall be a number equal to the total number of the months—

(A) \* \* \*

(B) with respect to which—

(i) such individual was a fully insured individual (as defined in section 214(a)), **[and]**

(ii) such individual either was not entitled to an old-age insurance benefit or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit**[.]**, and

(iii) *such individual was not subject to a penalty imposed under section 1129A.*

\* \* \* \* \*

(x)(1) \* \* \*

\* \* \* \* \*

(4)(A) *No person shall be considered entitled to monthly insurance benefits under this section based on the person's disability or to disability insurance benefits under section 223 otherwise payable during the 10-year period that begins on the date the person—*

(i) *knowingly fails to timely notify the Commissioner of Social Security, in connection with any application for benefits under this title, of any prior receipt by such person of any benefit under this title or title XVI in any month in which such benefit was not payable under the preceding provisions of this subsection, or*

(ii) *knowingly fails to comply with any schedule imposed by the Commissioner which is for repayment of overpayments comprised of payments described in subparagraph (A) and which is in compliance with section 204.*

*(B) The Commissioner of Social Security shall, in addition to any other relevant factors, take into account any mental or linguistic limitations of a person (including any lack of facility with the English language) in determining whether the person has knowingly failed to comply with a requirement of clause (i) or (ii) of subparagraph (A).*

\* \* \* \* \*

#### OVERPAYMENTS AND UNDERPAYMENTS

SEC. 204. (a)(1) \* \* \*

(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

(A) is made by direct deposit to a financial institution;

(B) is credited by the financial institution to a joint account of the deceased individual and another person; and

(C) such other person was entitled to a monthly benefit on the basis of the same wages and self-employment income as the deceased individual for the month preceding the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person. *If any payment of more than the correct amount is made to a representative payee on behalf of an individual after the individual's death, the representative payee shall be liable for the repayment of the overpayment, and the Commissioner of Social Security shall establish an overpayment control record under the social security account number of the representative payee.*

(b)(1) In any case in which more than the correct amount of payment has been made, there shall be no adjustment of payments to, or recovery by the United States from, any person who is without fault if such adjustment or recovery would defeat the purpose of this title or would be against equity and good conscience. In making for purposes of this subsection any determination of whether any individual is without fault, the Commissioner of Social Security shall specifically take into account any physical, mental, educational, or linguistic limitation such individual may have (including any lack of facility with the English language).

(2) *Paragraph (1) shall not apply with respect to any payment to any person made during a month in which such benefit was not payable under section 202(x).*

(3) *The Commissioner shall not refrain from recovering overpayments from resources currently available to any overpaid person or to such person's estate solely because such individual is confined as described in clause (i) or (ii) of section 202(x)(1)(A).*

\* \* \* \* \*

(f)(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections [3711(e)] 3711(f), 3716, 3717, and 3718 of title 31, United States Code, and in section 5514 of title 5, United States Code, *all*

as in effect immediately after the enactment of the Debt Collection Improvement Act of 1996.

\* \* \* \* \*

#### TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

##### SEC. 402. ELIGIBLE STATES; STATE PLAN.

(a) IN GENERAL.—As used in this part, the term “eligible State” means, with respect to a fiscal year, a State that, during the 27-month period ending with the close of the 1st quarter of the fiscal year, has submitted to the Secretary a plan that the Secretary has found includes the following:

###### (1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—

(A) \* \* \*

(B) SPECIAL PROVISIONS.—

(i) \* \* \*

\* \* \* \* \*

(iv) Not later than 1 year after the date of enactment of this [Act] *section*, unless the chief executive officer of the State opts out of this provision by notifying the Secretary, a State shall, consistent with the exception provided in section 407(e)(2), require a parent or caretaker receiving assistance under the program who, after receiving such assistance for 2 months is not exempt from work requirements and is not engaged in work, as determined under section 407(c), to participate in community service employment, with minimum hours per week and tasks to be determined by the State.

\* \* \* \* \*

##### SEC. 404. USE OF GRANTS.

(a) \* \* \*

\* \* \* \* \*

(e) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State *or tribe* may reserve amounts paid to the State *or tribe* under this part for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State *or tribal* program funded under this part.

\* \* \* \* \*

##### SEC. 409. PENALTIES.

(a) \* \* \*

\* \* \* \* \*

(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.—

(A) \* \* \*

(B) DEFINITIONS.—As used in this paragraph:

(i) QUALIFIED STATE EXPENDITURES.—

(I) \* \* \*

(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include expenditures under any State or local program during a fiscal year, except to the extent that—

(aa) the expenditures exceed the amount expended under the State or local program in the fiscal year most recently ending before the date of the enactment of this [part] section; or

\* \* \* \* \*

#### SEC. 413. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

(a) \* \* \*

\* \* \* \* \*

(g) REPORT ON CIRCUMSTANCES OF CERTAIN CHILDREN AND FAMILIES.—

(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this [Act] section, the Secretary of Health and Human Services shall prepare and submit to the Committees on Ways and Means and on Education and the Workforce of the House of Representatives and to the Committees on Finance and on Labor and Resources of the Senate annual reports that examine in detail the matters described in paragraph (2) with respect to each of the following groups for the period after such enactment:

(A) \* \* \*

\* \* \* \* \*

#### SEC. 416. ADMINISTRATION.

The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law, and the Secretary shall reduce the Federal workforce within the Department of Health and Human Services by an amount equal to the sum of 75 percent of the full-time equivalent positions at such Department that relate to any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the amendments made by such Act, and by an amount equal to 75 percent of that portion of the total full-time equivalent departmental management positions at such Department that bears the same relationship to the amount appropriated for any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the amendments made by such Act, as such amount relates to the total amount appropriated for use by such Department, and, notwithstanding any other provision of law, the Secretary shall take such actions as may be necessary, including reductions in force actions, consistent with

sections 3502 and 3595 of title 5, United States Code, to reduce the full-time equivalent positions within the Department of Health and Human Services by 245 full-time equivalent positions related to the program converted into a block grant under the amendments made by section 103 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and by 60 full-time equivalent managerial positions in the Department.

\* \* \* \* \*

#### SEC. 431. DEFINITIONS.

(a) IN GENERAL.—As used in this subpart:

(1) \* \* \*

\* \* \* \* \*

(6) INDIAN TRIBE.—The term “Indian tribe” means any Indian tribe (as defined in section 482(i)(5), *as in effect before August 22, 1986*) and any Alaska Native organization (as defined in section 482(i)(7)(A), *as so in effect*).

\* \* \* \* \*

#### DUTIES OF THE SECRETARY

SEC. 452. (a) The Secretary shall establish, within the Department of Health and Human Services a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

(1) \* \* \*

\* \* \* \* \*

(7) provide technical assistance to the States to help them establish effective systems for collecting child and spousal support and establishing paternity, and specify the minimum requirements of an affidavit to be used for the voluntary acknowledgment of paternity which shall include the [Social Security] *social security* number of each parent and, after consultation with the States, other common elements as determined by such designee;

\* \* \* \* \*

#### STATE PLAN FOR CHILD AND SPOUSAL SUPPORT

SEC. 454. A State plan for child and spousal support must—

(1) \* \* \*

\* \* \* \* \*

(6) provide that—

(A) \* \* \*

\* \* \* \* \*

(E) any costs in excess of the fees so imposed may be collected—

(i) from the parent who owes the child or spousal support obligation involved[, or]; *or*

\* \* \* \* \*

(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State—

(A) in establishing paternity, if necessary【,】;

(B) in locating a noncustodial parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State【,】;

(C) in securing compliance by a noncustodial parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of the child or children or the parent of such child or children with respect to whom aid is being provided under the plan of such other State【,】;

\* \* \* \* \*

(19) provide that the agency administering the plan—

(A) shall determine on a periodic basis, from information supplied pursuant to section 508 of the Unemployment Compensation Amendments of 1976, whether any individuals receiving compensation under the State's unemployment compensation law (including amounts payable pursuant to any agreement under any Federal unemployment compensation law) owe child support obligations which are being enforced by such agency【, and】; *and*

(B) shall enforce any such child support obligations which are owed by such an individual but are not being met—

(i) through an agreement with such individual to have specified amounts withheld from compensation otherwise payable to such individual and by submitting a copy of any such agreement to the State agency administering the unemployment compensation law【, or】; *or*

\* \* \* \* \*

(24) provide that the State will have in effect an automated data processing and information retrieval system—

(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988【, and】; *and*

(B) by October 1, 2000, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity *Reconciliation* Act of 1996, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 344(a)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;

\* \* \* \* \*

#### **SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.**

(a) **IN GENERAL.**—Subject to subsections 【(e) and (f)】 *(d) and (e)*, an amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

(1) \* \* \*

(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

(A) \* \* \*

(B) PAYMENTS OF ARREARAGES.—To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

(i) DISTRIBUTION OF ARREARAGES THAT ACCRUED AFTER THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

(I) PRE-OCTOBER 1997.—Except as provided in subclause (II), the provisions of this section as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and Work Opportunity *Reconciliation* Act [Reconciliation] of 1996 (other than subsection (b)(1) (as so in effect)) shall apply with respect to the distribution of support arrearages that—

(aa) \* \* \*

\* \* \* \* \*

(5) STUDY AND REPORT.—Not later than October 1, 1999, the Secretary shall report to the Congress the Secretary's findings with respect to—

(A) \* \* \*

\* \* \* \* \*

(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity *Reconciliation* Act of 1996 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

\* \* \* \* \*

(6) STATE OPTION FOR APPLICABILITY.—Notwithstanding any other provision of this subsection, a State may elect to apply the rules described in clauses (i)(II), (ii)(II), and (v) of paragraph (2)(B) to support arrearages collected on and after October 1, 1998, and, if the State makes such an election, shall apply the provisions of this section, as in effect and applied on the day before the date of enactment of section 302 of the Personal Responsibility and Work Opportunity *Reconciliation* Act of 1996 (Public Law 104–193, 110 Stat. 2200), other than subsection (b)(1) (as so in effect), to amounts collected before October 1, 1998.

\* \* \* \* \*

(c) DEFINITIONS.—As used in subsection (a):

(1) ASSISTANCE.—The term “assistance from the State” means—

(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect on the day before the date of the en-

actment of the Personal Responsibility and Work Opportunity *Reconciliation* Act of 1996); and

\* \* \* \* \*

[(d) HOLD HARMLESS PROVISION.—If the amounts collected which could be retained by the State in the fiscal year (to the extent necessary to reimburse the State for amounts paid to families as assistance by the State) are less than the State share of the amounts collected in fiscal year 1995 (determined in accordance with section 457 as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996), the State share for the fiscal year shall be an amount equal to the State share in fiscal year 1995.]

[(e)] (d) GAP PAYMENTS NOT SUBJECT TO DISTRIBUTION UNDER THIS SECTION.—At State option, this section shall not apply to any amount collected on behalf of a family as support by the State (and paid to the family in addition to the amount of assistance otherwise payable to the family) pursuant to a plan approved under this part if such amount would have been paid to the family by the State under section 402(a)(28), as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. [For purposes of subsection (d), the State share of such amount paid to the family shall be considered amounts which could be retained by the State if such payments were reported by the State as part of the State share of amounts collected in fiscal year 1995.]

[(f)] (e) Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E—

(1) \* \* \*

\* \* \* \* \*

#### REQUIREMENT OF STATUTORILY PRESCRIBED PROCEDURES TO IMPROVE EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT

SEC. 466. (a) In order to satisfy section 454(20)(A), each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

(1) \* \* \*

\* \* \* \* \*

(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—

(A) IN GENERAL.—Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. [1681a(f)] *1681a(f)*)) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

(B) \* \* \*

\* \* \* \* \*

(b) The procedures referred to in subsection (a)(1)(A) (relating to the withholding from income of amounts payable as support) must provide for the following:

(1) \* \* \*

\* \* \* \* \*

(6)(A)(i) The employer of any noncustodial parent to whom paragraph (1) applies, upon being given notice as described in clause (ii), must be required to withhold from such noncustodial parent's income the amount specified by such notice (which may include a fee, established by the State, to be paid to the employer unless waived by such employer) and pay such amount (after deducting and retaining any portion thereof which represents the fee so established) to the State disbursement unit within 7 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall withhold funds as directed in the notice, except that when an employer receives an income withholding order issued by another State, the employer shall apply the income withholding law of the [state] State of the obligor's principal place of employment in determining—

(I) \* \* \*

\* \* \* \* \*

(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

(1) \* \* \*

(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including [Social Security] *social security* number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer; and

\* \* \* \* \*

#### STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

(1) \* \* \*

\* \* \* \* \*

(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State

plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this title [(including activities under part F)] or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

\* \* \* \* \*

#### FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

SEC. 472. (a) Each State with a plan approved under this part shall make foster care maintenance payments (as defined in section 475(4)) under this part with respect to a child who would have met the requirements of section 406(a) (as so in effect) or of section 407 (as such sections were in effect on July 16, 1996) but for his removal from the home of a relative (specified in section 406(a)), if—

(1) \* \* \*

\* \* \* \* \*

In any case where the child is an alien disqualified under section 245A(h), 210(f), or 210A(d)(7) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(2)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification. *In determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than \$10,000 shall be considered to be a child whose resources have a*

*combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of such section 402(a)(7)(B)).*

\* \* \* \* \*

#### PAYMENTS TO STATES; ALLOTMENTS TO STATES

SEC. 474. (a) For each quarter beginning after September 30, 1980, each State which has a plan approved under this part shall be entitled to a payment equal to the sum of—

(1) \* \* \*

\* \* \* \* \*

[(4) an amount equal to the sum of—

[(A) so much of the amounts expended by such State to carry out programs under section 477 as do not exceed the basic amount for such State determined under section 477(e)(1); and

[(B) the lesser of—

[(i) one-half of any additional amounts expended by such State for such programs; or

[(ii) the maximum additional amount for such State under such section 477(e)(1).]

(4) the lesser of—

(A) 80 percent of the amount (if any) by which—

(i) the total amount expended by the State during the fiscal year in which the quarter occurs to carry out programs in accordance with the State application approved under section 477(b) for the period in which the quarter occurs (including any amendment that meets the requirements of section 477(b)(5)); exceeds

(ii) the total amount of any penalties assessed against the State under section 477(e) during the fiscal year in which the quarter occurs; or

(B) the amount allotted to the State under section 477 for the fiscal year in which the quarter occurs, reduced by the total of the amounts payable to the State under this paragraph for all prior quarters in the fiscal year.

\* \* \* \* \*

#### INDEPENDENT LIVING INITIATIVES

[SEC. 477. (a)(1) Payments shall be made in accordance with this section for the purpose of assisting States and localities in establishing and carrying out programs designed to assist children described in paragraph (2) who have attained age 16 in making the transition from foster care to independent living. Any State which provides for the establishment and carrying out of one or more such programs in accordance with this section for a fiscal year shall be entitled to receive payments under this section for such fiscal year, in an amount determined under subsection (e).

[(2) A program established and carried out under paragraph (1)—

[(A) shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part (including children with respect to

whom such payments are no longer being made because the child has accumulated assets, not to exceed \$5,000, which are otherwise regarded as resources for purposes of determining eligibility for benefits under this part),

[(B) may at the option of the State also include any or all other children in foster care under the responsibility of the State, and

[(C) may at the option of the State also include any child who has not attained age 21 to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in foster care described in subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.

[(b) The State agency administering or supervising the administration of the State's programs under this part shall be responsible for administering or supervising the administration of the State's programs described in subsection (a). Payment under this section shall be made to the State, and shall be used for the purpose of conducting and providing in accordance with this section (directly or under contracts with local governmental entities or private non-profit organizations) the activities and services required to carry out the program or programs involved.

[(c) In order for a State to receive payments under this section for any fiscal year, the State agency must submit to the Secretary, in such manner and form as the Secretary may prescribe, a description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section. In the case of payments for fiscal year 1987, such description and assurances must be submitted within 90 days after the Secretary promulgates regulations as required under subsection (i), and in the case of payments for any succeeding fiscal year, such description and assurances must be submitted prior to February 1 of such fiscal year.

[(d) In carrying out the purpose described in subsection (a), it shall be the objective of each program established under this section to help the individuals participating in such program to prepare to live independently upon leaving foster care. Such programs may include (subject to the availability of funds) programs to—

[(1) enable participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training;

[(2) provide training in daily living skills, budgeting, locating and maintaining housing, and career planning;

[(3) provide for individual and group counseling;

[(4) integrate and coordinate services otherwise available to participants;

[(5) provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the program;

[(6) provide each participant a written transitional independent living plan which shall be based on an assessment of his needs, and which shall be incorporated into his case plan, as described in section 475(1); and

[(7) provide participants with other services and assistance designed to improve their transition to independent living.

[(e)(1)(A) The basic amount to which a State shall be entitled under section 474(a)(4) for fiscal year 1987 and any succeeding fiscal year shall be an amount which bears the same ratio to the basic ceiling for such fiscal year as such State's average number of children receiving foster care maintenance payments under this part in fiscal year 1984 bears to the total of the average number of children receiving such payments under this part for all States for fiscal year 1984.

[(B) The maximum additional amount to which a State shall be entitled under section 474(a)(4) for fiscal year 1991 and any succeeding fiscal year shall be an amount which bears the same ratio to the additional ceiling for such fiscal year as the basic amount of such State bears to \$45,000,000.

[(C) As used in this section:

[(i) The term "basic ceiling" means—

[(I) for fiscal year 1990, \$50,000,000; and

[(II) for each fiscal year other than fiscal year 1990, \$45,000,000.

[(ii) The term "additional ceiling" means—

[(I) for fiscal year 1991, \$15,000,000; and

[(II) for any succeeding fiscal year, \$25,000,000.

[(2) If any State does not apply for funds under this section for any fiscal year within the time provided in subsection (c), the funds to which such State would have been entitled for such fiscal year shall be reallocated to one or more other States on the basis of their relative need for additional payments under this section (as determined by the Secretary).

[(3) Any amounts payable to States under this section shall be in addition to amounts payable to States under subsections (a)(1), (a)(2), and (a)(3) of section 474, and shall supplement and not replace any other funds which may be available for the same general purposes in the localities involved. Amounts payable under this section may not be used for the provision of room or board.

[(f) Payments made to a State under this section for any fiscal year—

[(1) shall be used only for the specific purposes described in this section;

[(2) may be made on an estimated basis in advance of the determination of the exact amount, with appropriate subsequent adjustments to take account of any error in the estimates; and

[(3) shall be expended by such State in such fiscal year or in the succeeding fiscal year.

Notwithstanding paragraph (3), payments made to a State under this section for the fiscal year 1987 and unobligated may be expended by such State in the fiscal year 1989.

[(g)(1) Not later than the first January 1 following the end of each fiscal year, each State shall submit to the Secretary a report

on the programs carried out during such fiscal year with the amounts received under this section. Such report—

[(A) shall be in such form and contain such information as may be necessary to provide an accurate description of such activities, to provide a complete record of the purposes for which the funds were spent, and to indicate the extent to which the expenditure of such funds succeeded in accomplishing the purpose described in subsection (a); and

[(B) shall specifically contain such information as the Secretary may require in order to carry out the evaluation under paragraph (2).

[(2)(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

[(B) Not later than March 1, 1989, the Secretary, on the basis of the reports submitted by States under paragraph (1) for the fiscal years 1987 and 1988, and on the basis of such additional information as the Secretary may obtain or develop, shall evaluate the use by States of the payments made available under this section for such fiscal year with respect to the purpose of this section, with the objective of appraising the achievements of the programs for which such payments were made available, and developing comprehensive information and data on the basis of which decisions can be made with respect to the improvement of such programs and the necessity for providing further payments in subsequent years. The Secretary shall report such evaluation to the Congress. As a part of such evaluation, the Secretary shall include, at a minimum, a detailed overall description of the number and characteristics of the individuals served by the programs, the various kinds of activities conducted and services provided and the results achieved, and shall set forth in detail findings and comments with respect to the various State programs and a statement of plans and recommendations for the future.

[(h) Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining eligibility (or the eligibility of any other persons) for aid under the State's plan approved under section 402 or 471, or for purposes of determining the level of such aid.

[(i) The Secretary shall promulgate final regulations for implementing this section within 60 days after the date of the enactment of this section.]

**SEC. 477. INDEPENDENT LIVING PROGRAM.**

(a) *PURPOSE.*—*The purpose of this section is to provide States with flexible funding that will enable programs to be designed and conducted—*

*(1) to identify children who are likely to remain in foster care until 18 years of age and to design programs that help these children make the transition to self-sufficiency by providing services such as assistance in obtaining a high school diploma, career exploration, vocational training, job placement and retention, training in daily living skills, training in budgeting and financial management skills, substance abuse prevention,*

and preventive health activities (including smoking avoidance, nutrition education, and pregnancy prevention);

(2) to help children who are likely to remain in foster care until 18 years of age receive the education, training, and services necessary to obtain employment;

(3) to help children who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and education institutions;

(4) to provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults; and

(5) to provide financial, housing, counseling, employment, education, and other appropriate support and services to former foster care recipients between 18 and 21 years of age to complement their own efforts to achieve self-sufficiency and to assure that program participants recognize and accept their personal responsibility for preparing for and then making the transition from adolescence to adulthood.

(b) APPLICATIONS.—

(1) *IN GENERAL.*—A State may apply for funds from its allotment under subsection (c) for a period of 5 consecutive fiscal years by submitting to the Secretary, in writing, a plan that meets the requirements of paragraph (2) and the certifications required by paragraph (3) with respect to the plan.

(2) *STATE PLAN.*—A plan meets the requirements of this paragraph if the plan specifies which State agency or agencies will administer, supervise, or oversee the programs carried out under the plan, and describes how the State intends to do the following:

(A) Design and deliver programs to achieve the purposes of this section.

(B) Ensure that all political subdivisions in the State are served by the program, though not necessarily in a uniform manner.

(C) Ensure that the programs serve children of various ages and at various stages of achieving independence.

(D) Involve the public and private sectors in helping adolescents in foster care achieve independence.

(E) Use objective criteria for determining eligibility for benefits and services under the programs, and for ensuring fair and equitable treatment of benefit recipients.

(F) Cooperate in national evaluations of the effects of the programs in achieving the purposes of this section.

(3) *CERTIFICATIONS.*—The certifications required by this paragraph with respect to a plan are the following:

(A) A certification by the chief executive officer of the State that the State will provide assistance and services to children who have left foster care but have not attained 21 years of age.

(B) A certification by the chief executive officer of the State that not more than 30 percent of the amounts paid to the State from its allotment under subsection (c) for a fiscal year will be expended for room or board for children

*who have left foster care and have attained 18 years of age but not 21 years of age.*

*(C) A certification by the chief executive officer of the State that none of the amounts paid to the State from its allotment under subsection (c) will be expended for room or board for any child who has not attained 18 years of age.*

*(D) A certification by the chief executive officer of the State that the State will use training funds provided under the program of Federal payments for foster care and adoption assistance to provide training to help foster parents, workers in group homes, and case managers understand and address the issues confronting adolescents preparing for independent living, and will, to the extent possible, coordinate such training with the independent living program conducted for adolescents.*

*(E) A certification by the chief executive officer of the State that the State has consulted widely with public and private organizations in developing the plan and that the State has given all interested members of the public at least 30 days to submit comments on the plan.*

*(F) A certification by the chief executive officer of the State that the State will make every effort to coordinate the State programs receiving funds provided from an allotment made to the State under subsection (c) with other Federal and State programs for youth (especially transitional living youth projects funded under part B of title III of the Juvenile Justice and Delinquency Prevention Act of 1974), abstinence education programs, local housing programs, programs for disabled youth (especially sheltered workshops), and school-to-work programs offered by high schools or local workforce agencies.*

*(G) A certification by the chief executive officer of the State that each Indian tribe in the State has been consulted about the programs to be carried out under the plan; that there have been efforts to coordinate the programs with such tribes; and that benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State.*

*(H) A certification by the chief executive officer of the State that the State will ensure that adolescents participating in the program under this section participate directly in designing their own program activities that prepare them for independent living and that the adolescents accept personal responsibility for living up to their part of the program.*

*(I) A certification by the chief executive officer of the State that the State has established and will enforce standards and procedures to prevent fraud and abuse in the programs carried out under the plan.*

*(4) APPROVAL.—The Secretary shall approve an application submitted by a State pursuant to paragraph (1) for a period if—*

*(A) the application is submitted on or before June 30 of the calendar year in which such period begins; and*

(B) *the Secretary finds that the application contains the material required by paragraph (1).*

(5) *AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS; NOTIFICATION.*—A State with an application approved under paragraph (4) may implement any amendment to the plan contained in the application if the application, incorporating the amendment, would be approvable under paragraph (4). Within 30 days after a State implements any such amendment, the State shall notify the Secretary of the amendment.

(6) *AVAILABILITY.*—The State shall make available to the public any application submitted by the State pursuant to paragraph (1), and a brief summary of the plan contained in the application.

(c) *ALLOTMENTS TO STATES.*—

(1) *IN GENERAL.*—From the amount specified in subsection (h) that remains after applying subsection (g)(2) for a fiscal year, the Secretary shall allot to each State with an application approved under subsection (b) for the fiscal year the amount which bears the same ratio to such remaining amount as the number of children in foster care under a program of the State in the most recent fiscal year for which such information is available bears to the total number of children in foster care in all States for such most recent fiscal year.

(2) *HOLD HARMLESS PROVISION.*—The Secretary shall ratably reduce the allotments made to States pursuant to paragraph (1) for a fiscal year to the extent necessary to ensure that the amount allotted to each State under paragraph (1) and this paragraph for the fiscal year is not less than the amount payable to the State under this section (as in effect before the enactment of the Foster Care Independence Act of 1999) for fiscal year 1998.

(3) *REALLOTMENT OF UNUSED FUNDS.*—The Secretary shall use the formula provided in paragraph (1) of this subsection to reallocate among the States with applications approved under subsection (b) for a fiscal year any amount allotted to a State under this subsection for the preceding year that is not payable to the State for the preceding year.

(d) *USE OF FUNDS.*—

(1) *IN GENERAL.*—A State to which an amount is paid from its allotment under subsection (c) may use the amount in any manner that is reasonably calculated to accomplish the purposes of this section.

(2) *NO SUPPLANTATION OF OTHER FUNDS AVAILABLE FOR SAME GENERAL PURPOSES.*—The amounts paid to a State from its allotment under subsection (c) shall be used to supplement and not supplant any other funds which are available for the same general purposes in the State.

(e) *PENALTIES.*—

(1) *USE OF GRANT IN VIOLATION OF THIS PART.*—If the Secretary is made aware, by an audit conducted under chapter 75 of title 31, United States Code, or by any other means, that a program receiving funds from an allotment made to a State under subsection (c) has been operated in a manner that is inconsistent with, or not disclosed in the State application ap-

proved under subsection (b), the Secretary shall assess a penalty against the State in an amount equal to not less than 1 percent and not more than 5 percent of the amount of the allotment.

(2) *FAILURE TO COMPLY WITH DATA REPORTING REQUIREMENT.*—The Secretary shall assess a penalty against a State that fails during a fiscal year to comply with an information collection plan implemented under subsection (f) in an amount equal to not less than 1 percent and not more than 5 percent of the amount allotted to the State for the fiscal year.

(3) *PENALTIES BASED ON DEGREE OF NONCOMPLIANCE.*—The Secretary shall assess penalties under this subsection based on the degree of noncompliance.

(f) *DATA COLLECTION AND PERFORMANCE MEASUREMENT.*—

(1) *IN GENERAL.*—The Secretary, in consultation with State and local public officials responsible for administering independent living and other child welfare programs, child welfare advocates, members of Congress, youth service providers, and researchers, shall—

(A) develop outcome measures (including measures of educational attainment, employment, avoidance of dependency, homelessness, nonmarital childbirth, and high-risk behaviors) that can be used to assess the performance of States in operating independent living programs;

(B) identify data elements needed to track—

(i) the number and characteristics of children receiving services under this section;

(ii) the type and quantity of services being provided; and

(iii) State performance on the outcome measures; and

(C) develop and implement a plan to collect the needed information beginning with the 2nd fiscal year beginning after the date of the enactment of this section.

(2) *REPORT TO THE CONGRESS.*—Within 12 months after the date of the enactment of this section, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the plans and timetable for collecting from the States the information described in paragraph (1).

(g) *EVALUATIONS.*—

(1) *IN GENERAL.*—The Secretary shall conduct evaluations of such State programs funded under this section as the Secretary deems to be innovative or of potential national significance. The evaluation of any such program shall include information on the effects of the program on education, employment, and personal development. To the maximum extent practicable, the evaluations shall be based on rigorous scientific standards including random assignment to treatment and control groups. The Secretary is encouraged to work directly with State and local governments to design methods for conducting the evaluations, directly or by grant, contract, or cooperative agreement.

(2) *FUNDING OF EVALUATIONS.*—The Secretary shall reserve 1.5 percent of the amount specified in subsection (h) for a fiscal year to carry out, during the fiscal year, evaluation, technical assistance, performance measurement, and data collection ac-

*tivities related to this section, directly or through grants, contracts, or cooperative agreements with appropriate entities.*

*(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section and for payments to States under section 474(a)(4), there are authorized to be appropriated to the Secretary \$140,000,000 for each fiscal year.*

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## TITLE VII—ADMINISTRATION

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SEC. 704. (a)(1) \* \* \*

\* \* \* \* \*

### Budgetary Matters

(b)(1)(A) The Commissioner shall prepare an annual budget for the Administration, which shall be submitted by the President to the Congress without revision, together with the President's annual budget for the Administration.

*(B) The Commissioner shall include in the annual budget prepared pursuant to subparagraph (A) an itemization of the amount of funds required by the Social Security Administration for the fiscal year covered by the budget to support efforts to combat fraud committed by applicants and beneficiaries.*

\* \* \* \* \*

## TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION

\* \* \* \* \*

### SEC. 1129A. ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS.

*(a) IN GENERAL.—Any person who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or the amount of—*

*(1) monthly insurance benefits under title II; or*

*(2) benefits or payments under title XVI,*

*that the person knows or should know is false or misleading or knows or should know omits a material fact or makes such a statement with knowing disregard for the truth shall be subject to, in addition to any other penalties that may be prescribed by law, a penalty described in subsection (b) to be imposed by the Commissioner of Social Security.*

*(b) PENALTY.—The penalty described in this subsection is—*

*(1) nonpayment of benefits under title II that would otherwise be payable to the person; and*

*(2) ineligibility for cash benefits under title XVI,*

*for each month that begins during the applicable period described in subsection (c).*

*(c) DURATION OF PENALTY.—The duration of the applicable period, with respect to a determination by the Commissioner under subsection (a) that a person has engaged in conduct described in subsection (a), shall be—*

(1) 6 consecutive months, in the case of a first such determination with respect to the person;

(2) 12 consecutive months, in the case of a second such determination with respect to the person; and

(3) 24 consecutive months, in the case of a third or subsequent such determination with respect to the person.

(d) *EFFECT ON OTHER ASSISTANCE.*—A person subject to a period of nonpayment of benefits under title II or ineligibility for title XVI benefits by reason of this section nevertheless shall be considered to be eligible for and receiving such benefits, to the extent that the person would be receiving or eligible for such benefits but for the imposition of the penalty, for purposes of—

(1) determination of the eligibility of the person for benefits under titles XVIII and XIX; and

(2) determination of the eligibility or amount of benefits payable under title II or XVI to another person.

(e) *DEFINITION.*—In this section, the term “benefits under title XVI” includes State supplementary payments made by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66.

(f) *CONSULTATIONS.*—The Commissioner of Social Security shall consult with the Inspector General of the Social Security Administration regarding initiating actions under this section.

\* \* \* \* \*

#### INCOME AND ELIGIBILITY VERIFICATION SYSTEM

SEC. 1137. (a) In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system which meets the requirements of subsection (d) and under which—

(1) \* \* \*

\* \* \* \* \*

(3) employers (including State and local governmental entities and labor organizations (as defined in section **453A(a)(2)(B)(iii))** 453A(a)(2)(B)(ii))) in such State are required, effective September 30, 1988, to make quarterly wage reports to a State agency (which may be the agency administering the State’s unemployment compensation law) except that the Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) may waive the provisions of this paragraph if he determines that the State has in effect an alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in paragraph (2), and except that no report shall be filed with respect to an employee of a State or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission;

\* \* \* \* \*

**EXCLUSION OF REPRESENTATIVES AND HEALTH CARE PROVIDERS CONVICTED OF VIOLATIONS FROM PARTICIPATION IN SOCIAL SECURITY PROGRAMS**

**SEC. 1148. (a) IN GENERAL.**—*The Commissioner of Social Security shall exclude from participation in the social security programs any representative or health care provider—*

*(1) who is convicted of a violation of section 208 or 1632 of this Act,*

*(2) who is convicted of any violation under title 18, United States Code, relating to an initial application for or continuing entitlement to, or amount of, benefits under title II of this Act, or an initial application for or continuing eligibility for, or amount of, benefits under title XVI of this Act, or*

*(3) who the Commissioner determines has committed an offense described in section 1129(a)(1) of this Act.*

**(b) NOTICE, EFFECTIVE DATE, AND PERIOD OF EXCLUSION.**—*(1) An exclusion under this section shall be effective at such time, for such period, and upon such reasonable notice to the public and to the individual excluded as may be specified in regulations consistent with paragraph (2).*

*(2) Such an exclusion shall be effective with respect to services furnished to any individual on or after the effective date of the exclusion. Nothing in this section may be construed to preclude, in determining disability under title II or title XVI, consideration of any medical evidence derived from services provided by a health care provider before the effective date of the exclusion of the health care provider under this section.*

*(3)(A) The Commissioner shall specify, in the notice of exclusion under paragraph (1), the period of the exclusion.*

*(B) Subject to subparagraph (C), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be five years, except that the Commissioner may waive the exclusion in the case of an individual who is the sole source of essential services in a community. The Commissioner's decision whether to waive the exclusion shall not be reviewable.*

*(C) In the case of an exclusion of an individual under subsection (a) based on a conviction or a determination described in subsection (a)(3) occurring on or after the date of the enactment of this section, if the individual has (before, on, or after such date of enactment) been convicted, or if such a determination has been made with respect to the individual—*

*(i) on one previous occasion of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be not less than 10 years, or*

*(ii) on 2 or more previous occasions of one or more offenses for which an exclusion may be effected under such subsection, the period of the exclusion shall be permanent.*

**(c) NOTICE TO STATE AGENCIES.**—*The Commissioner shall promptly notify each appropriate State agency employed for the purpose of making disability determinations under section 221 or 1633(a)—*

*(1) of the fact and circumstances of each exclusion effected against an individual under this section, and*

(2) of the period (described in subsection (b)(3)) for which the State agency is directed to exclude the individual from participation in the activities of the State agency in the course of its employment.

(d) NOTICE TO STATE LICENSING AGENCIES.—The Commissioner shall—

(1) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of an individual excluded from participation under this section of the fact and circumstances of the exclusion,

(2) request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and

(3) request that the State or local agency or authority keep the Commissioner and the Inspector General of the Social Security Administration fully and currently informed with respect to any actions taken in response to the request.

(e) NOTICE, HEARING, AND JUDICIAL REVIEW.—(1) Any individual who is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Commissioner to the same extent as is provided in section 205(b), and to judicial review of the Commissioner's final decision after such hearing as is provided in section 205(g).

(2) The provisions of section 205(h) shall apply with respect to this section to the same extent as it is applicable with respect to title II.

(f) APPLICATION FOR TERMINATION OF EXCLUSION.—(1) An individual excluded from participation under this section may apply to the Commissioner, in the manner specified by the Commissioner in regulations and at the end of the minimum period of exclusion provided under subsection (b)(3) and at such other times as the Commissioner may provide, for termination of the exclusion effected under this section.

(2) The Commissioner may terminate the exclusion if the Commissioner determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Commissioner at the time of the exclusion, that—

(A) there is no basis under subsection (a) for a continuation of the exclusion, and

(B) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

(3) The Commissioner shall promptly notify each State agency employed for the purpose of making disability determinations under section 221 or 1633(a) of the fact and circumstances of each termination of exclusion made under this subsection.

(g) AVAILABILITY OF RECORDS OF EXCLUDED REPRESENTATIVES AND HEALTH CARE PROVIDERS.—Nothing in this section shall be construed to have the effect of limiting access by any applicant or beneficiary under title II or XVI, any State agency acting under section 221 or 1633(a), or the Commissioner to records maintained by any representative or health care provider in connection with serv-

ices provided to the applicant or beneficiary prior to the exclusion of such representative or health care provider under this section.

(h) **REPORTING REQUIREMENT.**—Any representative or health care provider participating in, or seeking to participate in, a social security program shall inform the Commissioner, in such form and manner as the Commissioner shall prescribe by regulation, whether such representative or health care provider has been convicted of a violation described in subsection (a).

(i) **DELEGATION OF AUTHORITY.**—The Commissioner may delegate authority granted by this section to the Inspector General.

(j) **DEFINITIONS.**—For purposes of this section:

(1) **EXCLUDE.**—The term “exclude” from participation means—

(A) in connection with a representative, to prohibit from engaging in representation of an applicant for, or recipient of, benefits, as a representative payee under section 205(j) or 1631(a)(2)(A)(ii), or otherwise as a representative, in any hearing or other proceeding relating to entitlement to benefits, and

(B) in connection with a health care provider, to prohibit from providing items or services to an applicant for, or recipient of, benefits for the purpose of assisting such applicant or recipient in demonstrating disability.

(2) **SOCIAL SECURITY PROGRAM.**—The term “social security program” means the program providing for monthly insurance benefits under title II, and the program providing for monthly supplemental security income benefits to individuals under title XVI (including State supplementary payments made by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66).

(3) **CONVICTED.**—An individual is considered to have been “convicted” of a violation—

(A) when a judgment of conviction has been entered against the individual by a Federal, State, or local court, except if the judgment of conviction has been set aside or expunged;

(B) when there has been a finding of guilt against the individual by a Federal, State, or local court;

(C) when a plea of guilty or nolo contendere by the individual has been accepted by a Federal, State, or local court; or

(D) when the individual has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld.

\* \* \* \* \*

## TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

\* \* \* \* \*

PART A—DETERMINATION OF BENEFITS  
ELIGIBILITY FOR AND AMOUNT OF BENEFITS

Definition of Eligible Individual

SEC. 1611. (a) \* \* \*

\* \* \* \* \*

(e)(1)(A) \* \* \*

\* \* \* \* \*

(G) A person may be an eligible individual or eligible spouse for purposes of this title, and subparagraphs (A) and (B) shall not apply, with respect to any particular month throughout which he or she is an inmate of a public institution the primary purpose of which is the provision of medical or psychiatric care, or is in a medical treatment facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX or, in the case of an individual who is a child under the age of 18, under any health insurance policy issued by a private provider of such insurance, if it is determined in accordance with subparagraph (H) or (K) that—

(i) \* \* \*

\* \* \* \* \*

(I)(i) \* \* \*

(ii)(I) \* \* \*

\* \* \* \* \*

(II) The Commissioner [is authorized to] *shall* provide, on a reimbursable basis, information obtained pursuant to agreements entered into under clause (i) to any Federal or federally-assisted cash, food, or medical assistance program for eligibility purposes.

\* \* \* \* \*

*(J)(i) A person shall not be considered an eligible individual or eligible spouse for purposes of benefits under this title by reason of disability, during the 10-year period that begins on the date the person—*

*(I) knowingly fails to timely notify the Commissioner of Social Security, in an application for benefits under this title, of any prior receipt by the person of a benefit under this title or title II in a month in which payment to the person of a benefit under this title was prohibited by—*

*(aa) the preceding provisions of this paragraph by reason of confinement of a type described in clause (i) or (ii) of section 202(x)(1)(A); or*

*(bb) section 1611(e)(4); or*

*(II) knowingly fails to comply with any schedule imposed by the Commissioner which is for repayment of overpayments comprised of payments described in clause (i) of this subparagraph and which is in compliance with section 1631(b).*

*(ii) The Commissioner of Social Security shall, in addition to any other relevant factors, take into account any mental or linguistic limitations of a person (including any lack of facility with the English language) in determining whether the person has know-*

ingly failed to comply with a requirement of subclause (I) or (II) of clause (i).

(K) *For the purpose of carrying out this paragraph, the Commissioner of Social Security shall conduct periodic computer matches with data maintained by the Secretary of Health and Human Services under title XVIII or XIX. The Secretary shall furnish to the Commissioner, in such form and manner and under such terms as the Commissioner and the Secretary shall mutually agree, such information as the Commissioner may request for this purpose. Information obtained pursuant to such a match may be substituted for the physician's certification otherwise required under subparagraph (G)(i).*

[(4)(A) No person shall be considered an eligible individual or eligible spouse for purposes of this title during the 10-year period that begins on the date the person is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the person in order to receive assistance simultaneously from 2 or more States under programs that are funded under title IV, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this title.

[(B) As soon as practicable after the conviction of a person in a Federal or State court as described in subparagraph (A), an official of such court shall notify the Commissioner of such conviction.]

[(5)] (4) No person shall be considered an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—

(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

(B) violating a condition of probation or parole imposed under Federal or State law.

[(6)] (5) Notwithstanding any other provision of law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title, if the officer furnishes the Commissioner with the name of the recipient, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the recipient, and notifies the Commissioner that—

(A) the recipient—

(i) is described in subparagraph (A) or (B) of paragraph

[(5)] (4); and

(ii) has information that is necessary for the officer to conduct the officer's official duties; and

(B) the location or apprehension of the recipient is within the officer's official duties.

\* \* \* \* \*

## INCOME

## Meaning of Income

SEC. 1612. (a) For purposes of this title, income means both earned income and unearned income; and—

(1) \* \* \*

(2) unearned income means all other income, including—

(A) \* \* \*

\* \* \* \* \*

(E) support and alimony payments, and (subject to the provisions of subparagraph (D) excluding certain amounts expended for purposes of a last illness and burial) gifts (cash or otherwise) and inheritances; **[and]**

(F) rents, dividends, interest, and royalties not described in paragraph (1)(E)**[.]; and**

(G) *any earnings of, and additions to, the corpus of a trust established by an individual (within the meaning of section 1613(e)), of which the individual is a beneficiary, to which section 1613(e) applies, and, in the case of an irrevocable trust, with respect to which circumstances exist under which a payment from the earnings or additions could be made to or for the benefit of the individual.*

\* \* \* \* \*

## RESOURCES

## Exclusions From Resources

SEC. 1613. (a) \* \* \*

\* \* \* \* \*

**[Notification of Medicaid Policy Restricting Eligibility of Institutionalized Individuals for Benefits Based on]** Disposal of Resources for Less Than Fair Market Value

(c)(1)(A)(i) *If an individual or the spouse of an individual disposes of resources for less than fair market value on or after the look-back date described in clause (ii)(I), the individual is ineligible for benefits under this title for months during the period beginning on the date described in clause (iii) and equal to the number of months calculated as provided in clause (iv).*

(ii)(I) *The look-back date described in this subclause is a date that is 36 months before the date described in subclause (II).*

(II) *The date described in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the individual (or the spouse of the individual) disposes of resources for less than fair market value.*

(iii) *The date described in this clause is the first day of the first month in or after which resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.*

(iv) *The number of months calculated under this clause shall be equal to—*

(I) the total, cumulative uncompensated value of all resources so disposed of by the individual (or the spouse of the individual) on or after the look-back date described in clause (ii)(I); divided by

(II) the amount of the maximum monthly benefit payable under section 1611(b), plus the amount (if any) of the maximum State supplementary payment corresponding to the State's payment level applicable to the individual's living arrangement and eligibility category that would otherwise be payable to the individual by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93-66, for the month in which occurs the date described in clause (ii)(II),

rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.

(B)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to the resource is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered but for the application of subsection (e)(4)).

(ii) In the case of a trust established by an individual or an individual's spouse (within the meaning of subsection (e)), if from such portion of the trust, if any, that is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered but for the application of subsection (e)(4)) or the residue of the portion on the termination of the trust—

(I) there is made a payment other than to or for the benefit of the individual; or

(II) no payment could under any circumstance be made to the individual,

then, for purposes of this subsection, the payment described in clause (I) or the foreclosure of payment described in clause (II) shall be considered a transfer of resources by the individual or the individual's spouse as of the date of the payment or foreclosure, as the case may be.

(C) An individual shall not be ineligible for benefits under this title by reason of the application of this paragraph to a disposal of resources by the individual or the spouse of the individual, to the extent that—

(i) the resources are a home and title to the home was transferred to—

(I) the spouse of the transferor;

(II) a child of the transferor who has not attained 21 years of age, or is blind or disabled;

(III) a sibling of the transferor who has an equity interest in such home and who was residing in the transferor's home for a period of at least 1 year immediately before the date the transferor becomes an institutionalized individual; or

(IV) a son or daughter of the transferor (other than a child described in subclause (II)) who was residing in the transferor's home for a period of at least 2 years immediately before the date the transferor becomes an institutionalized individual, and who provided care to the trans-

*feror which permitted the transferor to reside at home rather than in such an institution or facility;*

*(ii) the resources—*

*(I) were transferred to the transferor's spouse or to another for the sole benefit of the transferor's spouse;*

*(II) were transferred from the transferor's spouse to another for the sole benefit of the transferor's spouse;*

*(III) were transferred to, or to a trust (including a trust described in section 1917(d)(4)) established solely for the benefit of, the transferor's child who is blind or disabled; or*

*(IV) were transferred to a trust (including a trust described in section 1917(d)(4)) established solely for the benefit of an individual who has not attained 65 years of age and who is disabled;*

*(iii) a satisfactory showing is made to the Commissioner of Social Security (in accordance with regulations promulgated by the Commissioner) that—*

*(I) the individual who disposed of the resources intended to dispose of the resources either at fair market value, or for other valuable consideration;*

*(II) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title; or*

*(III) all resources transferred for less than fair market value have been returned to the transferor; or*

*(iv) the Commissioner determines, under procedures established by the Commissioner, that the denial of eligibility would work an undue hardship as determined on the basis of criteria established by the Commissioner.*

*(D) For purposes of this subsection, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be disposed of by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates the individual's ownership or control of such resource.*

*(E) In the case of a transfer by the spouse of an individual that results in a period of ineligibility for the individual under this subsection, the Commissioner shall apportion the period (or any portion of the period) among the individual and the individual's spouse if the spouse becomes eligible for benefits under this title.*

*(F) For purposes of this paragraph—*

*(i) the term "benefits under this title" includes payments of the type described in section 1616(a) of this Act and of the type described in section 212(b) of Public Law 93-66;*

*(ii) the term "institutionalized individual" has the meaning given such term in section 1917(e)(3); and*

*(iii) the term "trust" has the meaning given such term in subsection (e)(6)(A) of this section.*

**[(c)(1)] (2)(A)** At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Commissioner of Social Security shall—

[(A)] (i) inform such individual of the provisions of *paragraph (1) and section 1917(c)* providing for a period of ineligibility for benefits under [title XIX] *this title and title XIX, respectively*, for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to [subparagraph (B)] *clause (ii)* will be made available to the State agency administering a State plan under title XIX (as provided in [paragraph (2)] *subparagraph (B)*); and

[(B)] (ii) obtain from such individual information which may be used [by the State agency] in determining whether or not a period of ineligibility for such benefits would be required by reason of [section 1917(c) if such individual (or such spouse, if any) enters a medical institution or nursing facility.] *paragraph (1) or section 1917(c).*

[(2)] (B) The Commissioner of Social Security shall make the information obtained under [paragraph (1)(B)] *subparagraph (A)(ii)* available, on request, to any State agency administering a State plan approved under title XIX.

\* \* \* \* \*

### *Trusts*

(e)(1) *In determining the resources of an individual, paragraph (3) shall apply to a trust (other than a trust described in paragraph (5)) established by the individual.*

(2)(A) *For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual (or of the individual's spouse) are transferred to the trust other than by will.*

(B) *In the case of an irrevocable trust to which are transferred the assets of an individual (or of the individual's spouse) and the assets of any other person, this subsection shall apply to the portion of the trust attributable to the assets of the individual (or of the individual's spouse).*

(C) *This subsection shall apply to a trust without regard to—*

*(i) the purposes for which the trust is established;*

*(ii) whether the trustees have or exercise any discretion under the trust;*

*(iii) any restrictions on when or whether distributions may be made from the trust; or*

*(iv) any restrictions on the use of distributions from the trust.*

(3)(A) *In the case of a revocable trust established by an individual, the corpus of the trust shall be considered a resource available to the individual.*

(B) *In the case of an irrevocable trust established by an individual, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual or the individual's spouse, the portion of the corpus from which payment to or for the benefit of the individual or the individual's spouse could be made shall be considered a resource available to the individual.*

(4) *The Commissioner of Social Security may waive the application of this subsection with respect to an individual if the Commis-*

sioner determines that such application would work an undue hardship (as determined on the basis of criteria established by the Commissioner) on the individual.

(5) This subsection shall not apply to a trust described in subparagraph (A) or (C) of section 1917(d)(4).

(6) For purposes of this subsection—

(A) the term “trust” includes any legal instrument or device that is similar to a trust;

(B) the term “corpus” means, with respect to a trust, all property and other interests held by the trust, including accumulated earnings and any other addition to the trust after its establishment (except that such term does not include any such earnings or addition in the month in which the earnings or addition is credited or otherwise transferred to the trust); and

(C) the term “asset” includes any income or resource of the individual or of the individual’s spouse, including—

(i) any income excluded by section 1612(b);

(ii) any resource otherwise excluded by this section; and

(iii) any other payment or property to which the individual or the individual’s spouse is entitled but does not receive or have access to because of action by—

(I) the individual or spouse;

(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, the individual or spouse; or

(III) a person or entity (including a court) acting at the direction of, or on the request of, the individual or spouse.

\* \* \* \* \*

## PART B—PROCEDURAL AND GENERAL PROVISIONS

### PAYMENTS AND PROCEDURES

#### Payment of Benefits

SEC. 1631. (a) \* \* \*

#### Overpayments and Underpayments

(b)(1)(A) Whenever the Commissioner of Social Security finds that more or less than the correct amount of benefits has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, by payment—

(i) \* \* \*

\* \* \* \* \*

*The Commissioner shall not refrain from recovering overpayments from resources currently available to any individual solely because the individual is confined as described in clause (i) or (ii) of section 202(x)(1)(A).*

(B) The Commissioner of Social Security (i) shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this title, or be against equity and good conscience, or (because of the small amount involved) impede efficient or effective administration of this title, *unless (I) section 1611(e)(1) prohibits payment to the person of a benefit under this title for the month by reason of confinement of a type described in clause (i) or (ii) of section 202(x)(1)(A), or (II) section 1611(e)(5) prohibits payment to the person of a benefit under this title for the month, and (ii) shall in any event make the adjustment or recovery (in the case of payment of more than the correct amount of benefits), in the case of an individual or eligible spouse receiving monthly benefit payments under this title (including supplementary payments of the type described in section 1616(a) and payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), in amounts which in the aggregate do not exceed (for any month) the lesser of (I) the amount of his or their benefit under this title for that month or (II) an amount equal to 10 percent of his or their income for that month (including such benefit but excluding any other income excluded pursuant to section 1612(b)), and in the case of an individual or eligible spouse to whom a lump sum is payable under this title (including under section 1616(a) of this Act or under an agreement entered into under section 212(a) of Public Law 93-66) shall, as at least one means of recovering such overpayment, make the adjustment or recovery from the lump sum payment in an amount equal to not less than the lesser of the amount of the overpayment or 50 percent of the lump sum payment, unless fraud, willful misrepresentation, or concealment of material information was involved on the part of the individual or spouse in connection with the overpayment, or unless the individual requests that such adjustment or recovery be made at a higher or lower rate and the Commissioner of Social Security determines that adjustment or recovery at such rate is justified and appropriate. The availability (in the case of an individual who has been paid more than the correct amount of benefits) of procedures for adjustment or recovery at a limited rate under clause (ii) of the preceding sentence shall not, in and of itself, prevent or restrict the provision (in such case) of more substantial relief under clause (i) of such sentence.*

(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

(A) \* \* \*

\* \* \* \* \*

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person. *If any payment of more than the correct amount is made to a representative payee on behalf of an individual after the individual's death, the representative payee shall be liable for the repayment of the overpayment, and the Commissioner of Social Se-*

curity shall establish an overpayment control record under the social security account number of the representative payee.

(4)(A) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, 3717, and 3718 of title 31, United States Code, and in section 5514 of title 5, United States Code, all as in effect immediately after the enactment of the Debt Collection Improvement Act of 1996.

(B) For purposes of subparagraph (A), the term “delinquent amount” means an amount—

- (i) in excess of the correct amount of payment under this title;
- (ii) paid to a person after such person has attained 18 years of age; and
- (iii) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title.

[(4)] (5) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1127.

[(5)] (6) For provisions relating to the recovery of benefits incorrectly paid under this title from benefits payable under title II, see section 1147.

\* \* \* \* \*

#### Applications and Furnishing of Information

(e)(1)(A) \* \* \*

(B)(i) The requirements prescribed by the Commissioner of Social Security pursuant to subparagraph (A) shall require that eligibility for benefits under this title will not be determined solely on the basis of declarations by the applicant concerning eligibility factors or other relevant facts, and that relevant information will be verified from independent or collateral sources and additional information obtained as necessary in order to assure that such benefits are only provided to eligible individuals (or eligible spouses) and that the amounts of such benefits are correct. For this purpose and for purposes of federally administered supplementary payments of the type described in section 1616(a) of this Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66), the Commissioner of Social Security shall, as may be necessary, request and utilize information available pursuant to section 6103(l)(7) of the Internal Revenue Code of 1954, and any information which may be available from State systems under section 1137 of this Act, and shall comply with the requirements applicable to States (with respect to information available pursuant to section 6103(l)(7)(B) of such Code) under subsections (a)(6) and (c) of such section 1137.

(ii)(I) The Commissioner of Social Security may require each applicant for, or recipient of, benefits under this title to provide authorization by the applicant or recipient (or by any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient for such benefits) for the Commissioner to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act) from

any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (or any such other person) whenever the Commissioner determines the record is needed in connection with a determination with respect to such eligibility or the amount of such benefits.

(II) Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act, an authorization provided by an applicant or recipient (or any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient) pursuant to subclause (I) of this clause shall remain effective until the earliest of—

(aa) the rendering of a final adverse decision on the applicant's application for eligibility for benefits under this title;

(bb) the cessation of the recipient's eligibility for benefits under this title; or

(cc) the express revocation by the applicant or recipient (or such other person referred to in subclause (I)) of the authorization, in a written notification to the Commissioner.

(III)(aa) An authorization obtained by the Commissioner of Social Security pursuant to this clause shall be considered to meet the requirements of the Right to Financial Privacy Act for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

(bb) The certification requirements of section 1103(b) of the Right to Financial Privacy Act shall not apply to requests by the Commissioner of Social Security pursuant to an authorization provided under this clause.

(cc) A request by the Commissioner pursuant to an authorization provided under this clause is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act and the flush language of section 1102 of such Act.

(IV) The Commissioner shall inform any person who provides authorization pursuant to this clause of the duration and scope of the authorization.

(V) If an applicant for, or recipient of, benefits under this title (or any such other person referred to in subclause (I)) refuses to provide, or revokes, any authorization made by the applicant or recipient for the Commissioner of Social Security to obtain from any financial institution any financial record, the Commissioner may, on that basis, determine that the applicant or recipient is ineligible for benefits under this title.

\* \* \* \* \*

## TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

\* \* \* \* \*

### STATE PLANS FOR MEDICAL ASSISTANCE

SEC. 1902. (a) A State plan for medical assistance must—

(1) \* \* \*

\* \* \* \* \*

(10) provide—

(A) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5), (17) and (21) of section 1905(a), to—

(i) \* \* \*

(ii) at the option of the State, to any group or groups of individuals described in section 1905(a) (or, in the case of individuals described in section 1905(a)(i), to any reasonable categories of such individuals) who are not individuals described in clause (i) of this subparagraph but—

(I) \* \* \*

\* \* \* \* \*

(XIII) who are in families whose income is less than 250 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, and who but for earnings in excess of the limit established under section 1905(q)(2)(B), would be considered to be receiving supplemental security income (subject, notwithstanding section 1916, to payment of premiums or other cost-sharing charges (set on a sliding scale based on income) that the State may determine); **[or]**

(XIV) who are optional targeted low-income children described in section 1905(u)(2)(C)**[;]** **or**

(XV) *who are independent foster care adolescents (as defined in (section 1905(v)(1)), or who are within any reasonable categories of such adolescents specified by the State;*

\* \* \* \* \*

#### DEFINITIONS

SEC. 1905. For purposes of this title—

(a) \* \* \*

\* \* \* \* \*

(v)(1) *For purposes of this title, the term “independent foster care adolescent” means an individual—*

(A) *who is under 21 years of age;*

(B) *who, on the individual’s 18th birthday, was in foster care under the responsibility of a State; and*

(C) *whose assets, resources, and income do not exceed such levels (if any) as the State may establish consistent with paragraph (2).*

(2) *The levels established by a State under paragraph (1)(C) may not be less than the corresponding levels applied by the State under section 1931(b).*

(3) *A State may limit the eligibility of independent foster care adolescents under section 1902(a)(10)(A)(ii)(XV) to those individuals with respect to whom foster care maintenance payments or independent living services were furnished under a program funded under part E of title IV before the date the individuals attained 18 years of age.*

\* \* \* \* \*

## SECTION 3701 OF TITLE 31, UNITED STATES CODE

### § 3701. Definitions and application

(a) \* \* \*

\* \* \* \* \*

(d) Sections 3711(e) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under—

(1) \* \* \*

(2) the Social Security Act (42 U.S.C. 301 et seq.), except to the extent provided under **section 204(f)** *sections 204(f) and 1631(b)(4)* of such Act and section 3716(c) of this title, or

\* \* \* \* \*

## SECTION 344 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

### SEC. 344. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) \* \* \*

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—

(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

[(A) in paragraph (1)(B)—

[(i) by striking “90 percent” and inserting “the percent specified in paragraph (3)”;

[(ii) by striking “so much of”; and

[(iii) by striking “which the Secretary” and all that follows and inserting “, and”; and]

(A) *in paragraph (1), by striking subparagraph (B) and inserting the following:*

*“(B) equal to the percent specified in paragraph (3) of the sums expended during such quarter that are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system (including in such sums the full cost of the hardware components of such system); and”; and*

\* \* \* \* \*